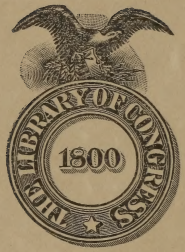

LABOR LAWS

OF THE

STATE OF CALIFORNIA

1917

STATE OF CALIFORNIA

BUREAU OF LABOR STATISTICS

948 Market Street
SAN FRANCISCO

LABOR LAWS OF CALIFORNIA

COMPILED BY
JOHN P. McLAUGHLIN, Commissioner

CALIFORNIA STATE PRINTING OFFICE
SACRAMENTO
1917

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FOREWORD.

This compilation of labor laws includes the legislation passed at the 1917 session of the legislature.

The plan followed in presenting these laws is the same as in former editions, that is, laws passed up to and including the session of 1915 are given with code designations as taken from the Deering Codes 1915, together with subsequent changes and amendments.

The laws passed since 1915 are given with chapter numbers under the year in which they were enacted.

Digests are presented for laws relating to apprenticeships, mechanics' liens and convict labor, and the more important decisions on labor laws are printed in full.

JOHN P. McLAUGHLIN,
Commissioner.

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CONSTITUTION.

ARTICLE 19

Employment of Chinese—Coolie labor.

Sec. 3. No Chinese shall be employed on any state, county, municipal, or other public work, except in punishment for crime. Employment on public works.

Sec. 4. The presence of foreigners ineligible to become citizens of the United States is declared to be dangerous to the well-being of the state, and the legislature shall discourage their immigration by all means within its power. Asiatic coolieism is a form of human slavery, and is forever prohibited in this state, and all contracts for coolie labor shall be void. All companies or corporations, whether formed in this country or any foreign country, for the importation of such labor, shall be subject to such penalties as the legislature may prescribe. The legislature shall delegate all necessary power to the incorporated cities and towns of this state for the removal of Chinese without the limits of such cities and towns, or for their location within prescribed portions of those limits, and it shall also provide the necessary legislation to prohibit the introduction into this state of Chinese after the adoption of this constitution. This section shall be enforced by appropriate legislation. Coolieism prohibited. Authority of cities and towns.

ARTICLE 20.

Hours of labor on public works.

Sec. 17. The time of service of all laborers or workmen or mechanics employed upon any public works of the State of California, or of any county, city and county, city, town, district, township, or any other political subdivision thereof, whether said work is done by contract or otherwise, shall be limited and restricted to eight hours in any one calendar day, except in cases of extraordinary emergency caused by fire, flood, or danger to life and property, or except to work upon public, military, or naval works or defenses in time of war, and the legislature shall provide by law that a stipulation to Eight hours a day's work. Exception.

this effect shall be incorporated in all contracts for public works and prescribe proper penalties for the speedy and efficient enforcement of said law.

Minimum wage.

SEC. 17½. The legislature may, by appropriate legislation, provide for the establishment of a minimum wage for women and minors and may provide for the comfort, health, safety and general welfare of any and all employees. No provision of this constitution shall be construed as a limitation upon the authority of the legislature to confer upon any commission now or hereafter created such power and authority as the legislature may deem requisite to carry out the provisions of this section. [Adopted at general election, Nov. 3, 1914.]

Sex no disqualification for employment.

Sex not a bar.

SEC. 18. No person shall, on account of sex, be disqualified from entering upon or pursuing any lawful business, vocation, or profession.

POLITICAL CODE.

Rates of wages of employees of state printing office.

SEC. 531. [As amended, Stats. 1915, chap. 671.] The duties of the superintendent of state printing shall be as follows: * * * He shall employ such compositors, pressmen, and assistants as the exigency of the work from time to time requires, and may at any time discharge such employees; *provided*, that at no time shall he pay said compositors, bookbinders, pressmen or assistants a lower rate of wages than the average wage paid by those employing such mechanics in Sacramento, San Francisco, Oakland and Los Angeles for like work. He shall at no time employ more compositors, bookbinders, pressmen or assistants than the absolute necessities of the state printing may demand, and he shall not permit any other than state work to be done in the state printing office. * * * [Enacted March 12, 1872.]

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Time to vote to be allowed employees.

SEC. 1212. Any person entitled to vote at a general election held within this state shall, on the day of such election, be entitled to absent himself from any service or employment in which he is then engaged or employed for the period of two consecutive hours, between the time of opening and the time of closing the polls; and such voter shall not, because of so absenting himself, be liable to any penalty, nor shall any deduction be made on account of such absence from his usual salary or wages. [Enacted March 12, 1872.]

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SEC. 2545. * * * No person not a citizen of the United States shall be employed either as a contractor or laborer on any work done under this article [relating to San Francisco

Citizens preferred.

Eight-hour day.

harbor]. And eight hours shall constitute a legal day's work, whether performed directly for the state or for the person or persons receiving a contract under this article. [Enacted March 12, 1872.]

Liability of employers for road tax of employees.

Employers chargeable.

SEC. 2671. Corporations, or other employers of persons in any road district subject to road tax, are chargeable for road poll tax assessed against their employees to the extent of any credit in their hands not exceeding such tax; *provided*, the road overseer shall first give notice to such employer, or the managing agent of such corporation, and from the time of such notice, the amount of any credit in his hands, or that shall thereafter accrue sufficient to satisfy said tax, shall be paid to the road tax collector, whose receipt shall be evidence in bar of the prosecution of any action by the employee against the principal for the recovery of the same. [Enacted, Stats. 1883, p. 12.]

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SEC. 2853 (as amended by chapter 371, acts of 1913). No toll bridge or ferry must be established within one mile immediately above or below a regularly established ferry or toll bridge, unless the situation of a town or village, the crossing of a public highway, or the intersection of some creek or ravine renders it necessary for public convenience; *provided*, *however*, that notwithstanding the grant or existence of such ferry franchise any employer may transport his or its own employees to and from their places of labor by means of boats owned or operated by such employers; and similarly all or any number less than all of the employees of the same employer may co-operatively or otherwise transport themselves to and from their places of labor in boats owned or operated in severalty or in common by them. But such transportation whether such boats be operated by the employer or the employees shall not be conducted for profit.

* * *

Employment of intemperate drivers on public conveyances.

Employment forbidden.

SEC. 2932. No person must employ to drive any vehicle for the conveyance of passengers upon any public highway, a person addicted to drunkenness, under penalty of five

dollars for every day such person is in his employment. [Enacted March 12, 1872.]

Discharge required.

SEC. 2933. If any driver, whilst actually employed in driving any such vehicle, is intoxicated to such a degree as to endanger the safety of his passengers, the owner on receiving from any such passenger a written notice of the fact, verified by his oath, must forthwith discharge such driver; and if he has such driver in his service within six months after such notice, he incurs a like penalty. [Enacted March 12, 1872.]

Trade-marks of trade unions.

SEC. 3200. Any trade union, labor association, or labor organization, organized and existing in this state, whether incorporated or not, may adopt and use a trade-mark and affix the same to any goods made, produced or manufactured by the members of such trade union, labor association, or labor organization, or to the box, cask, case, or package containing such goods, and may record such trade-mark by filing or causing to be filed with the secretary of state its claim to the same, and a copy or description of such trade-mark, with the affidavit of the president of such trade union, labor association, or labor organization, certified to by any officer authorized to take acknowledgment of conveyances, setting forth that the trade union, labor association, or labor organization, of which he is the president is the exclusive owner, or agent of the owner, of such trade-mark; and all the provisions of article three, chapter seven, title seven, part three, of the Political Code, are hereby made applicable to such trade-mark. [Enacted, Stats. 1887, p. 167.]

SEC. 3201. The president or other presiding officer of any trade union, labor association, or labor organization, organized and existing in this state, which shall have complied with the provisions of the preceding section, is hereby authorized and empowered to commence and prosecute in his own name any action or proceedings he may deem necessary for the protection of any trade-mark adopted or in use under the provisions of the preceding section, or for the protection or enforcement of any rights or powers which may accrue to such trade union, labor association, or labor organization by the use or adoption of such trade-mark. [Enacted, Stats. 1887, p. 168.]

Contract work on public buildings prohibited.

Work to be done by day's labor.

SEC. 3233. All work done upon the public buildings of this state must be done under the supervision of a superintendent, or state officer or officers having charge of the work, and all labor employed on such buildings, whether skilled or unskilled, must be employed by the day, and no work upon any of such buildings must be done by contract. [Enacted March 12, 1872.]

Products of Chinese labor not to be bought by state officials.

Public supplies not to be product of Chinese labor.

SEC. 3235. No supplies of any kind or character, "for the benefit of the state, or to be paid for by any moneys appropriated or to be appropriated by the state," manufactured or grown in this state, which are in whole or in part the product of Mongolian labor, shall be purchased by the officials for the state having the control of any public institution under the control of the state, or of any county, city and county, city, or town thereof. [Stats. 1887, p. 171.]

Hours of labor.

Eight hours a day's work, when.

SEC. 3244. Eight hours of labor constitutes a day's work, unless it is otherwise expressly stipulated by the parties to a contract, except those contracts within the provisions of sections three thousand two hundred and forty-six, three thousand two hundred and forty-seven, and three thousand two hundred and forty-eight of this code. [Enacted March 12, 1872.]

Street railways.

SEC. 3246. Twelve hours' labor constitutes a day's work on the part of drivers and conductors, and gripmen of street cars for the carriage of passengers. Any contract for a greater number of hours' labor in one day shall be and is void, at the option of the employee, without regard to the terms of employment, whether the same be by the hour, day, week, month, or any other period of time, or by or according to the trip or trips that the car may, might, or can make between the termini of the route, or any less distance thereof. Any and every person laboring over twelve hours in one day as driver, or conductor, or gripman, on any street railroad, shall receive from his employer thirty cents for each hour's labor over twelve hours in each day. [Stats. 1887, p. 101.]

Actions for wages.

SEC. 3247. In actions to recover the value or price of labor under section three thousand two hundred and forty-six of this code, the plaintiff may include in one action his claim for the number of days, and the number of hours' work over twelve hours in each day, performed by him for the defendant, and the court shall exclude all evidence of agreement to labor over twelve hours in one day for a less price than thirty cents, and the court shall exclude any receipt of payment for hours of labor over twelve hours in one day, unless it be established that at least thirty cents for each hour of labor over twelve hours in one day has been actually paid, and a partial payment shall not be deemed or considered a payment in full. [Stats. 1897, p. 208.]

Recovery for overtime.

Rate of wages.

Application of law.

SEC. 3249. The provisions of section three thousand two hundred and forty-seven * * * of this code are applicable to every contract to labor made by the persons named in section three thousand two hundred and forty-six. [Stats. 1887, p. 102.]

Street railways.

SEC. 3250. No person shall be employed as conductor, or driver, or gripman, on any street railroad, for more than twelve hours in one day, except as in this act provided, and any corporation, or company, or owner, or agent, or superintendent, who knowingly employs any person in such capacity for more than twelve hours in one day, in violation of the terms of this act, shall forfeit the sum of fifty dollars as a penalty for such offense, to the use of the person prosecuting any action therefor, and any number of forfeits may be prosecuted in one action. [Stats. 1887, p. 102.]

Penalty.

Goods, etc., produced within the state to be preferred for public use.

Preference of domestic products.

SEC. 3247 (added by chapter 149, acts of 1897).* Any person, committee, board, officer, or any other person charged with the purchase, or permitted or authorized to purchase supplies, goods, wares, merchandise, manufactures or produce, for the use of the state, or any of its institutions or officers, or for the use of any county or consolidated city and county,

*This is a duplicate use of this section number, but is in accordance with the provisions of the chapter named.

or city, or town, shall always, price, fitness and quality equal, prefer such supplies, goods, wares, merchandise, manufactures or produce as has been grown, manufactured, or produced in this state, and shall next prefer such as have been partially so manufactured, grown, or produced in this state. [Stats. 1897, p. 208.]

CIVIL CODE.

Rights of employers—Injuries to employees.

Injuries forbidden.

SEC. 49. The rights of personal relation forbid:

* * * * * * *

4. Any injury to a servant which affects his ability to serve his master. [Enacted March 12, 1872.]

Earnings of minors.

Payment to minors.

SEC. 212. The wages of a minor employed in service may be paid to him until the parent or guardian entitled thereto gives the employer notice that he claims such wages. [Enacted March 12, 1872.]

Assignment of wages.

Assignment of salary.

SEC. 955 (added by chap. 287, Stats. 1913). No assignment of, or order for wages or salary shall be valid unless made in writing by the person by whom the said wages or salary are earned and no assignment of, or order for, wages or salary made by a married person shall be valid unless the written consent of the husband or wife of the person making such assignment or order is attached to such assignment or order; and no assignment or order for wages or salary of a minor shall be valid unless the written consent of a parent or the guardian of such minor is attached to such order or assignment. No assignment of, or order for, wages or salary shall be valid unless at the time of the making thereof, such wages or salary have been earned, except for the necessities of life and then only to the person or persons furnishing such necessities of life directly and then only for the amount needed to furnish such necessities. Any power of attorney to assign or collect wages or salary shall be revokable at any time by the maker thereof.

Employment of labor—General provisions.

Definition.

SEC. 1965. The contract of employment is a contract by which one, who is called the employer, engages another, who is called the employee, to do something for the benefit of the employer, or of a third person. [Enacted March 21, 1872.]

Losses incurred in discharge of duty.

SEC. 1969. An employer must indemnify his employee except as prescribed in the next section, for all that he necessarily expends or loses in direct consequence of the discharge of his duties as such, or of his obedience to the directions of the employer, even though unlawful, unless the employee, at the time of obeying such directions, believed them to be unlawful. [Enacted March 21, 1872.]

Ordinary risks.

*SEC. 1970 (as amended by chapter 97, acts of 1907). An employer is not bound to indemnify his employee for losses suffered by the latter in consequence of the ordinary risks of the business in which he is employed, nor in consequence of the negligence of another person employed by the same employer in the same general business, unless the negligence causing the injury was committed in the performance of a duty the employer owes by law to the employee, or unless the

Superior servants.

employer has neglected to use ordinary care in the selection of the culpable employee; *provided, nevertheless,* that the employer shall be liable for such injury when the same results from the wrongful act, neglect or default of any agent or officer of such employer, superior to the employee injured, or

Other departments, etc.

of a person employed by such employer having the right to control or direct the services of such employee injured, and also when such injury results from the wrongful act, neglect or default of a co-employee engaged in another department of labor from that of the employee injured, or employed upon a machine, railroad train, switch signal point, locomotive engine, or other appliance than that upon which the employee [who] is injured is employed, or who is charged with dispatching trains, or transmitting telegraphic or telephonic orders upon any railroad, or in the operation of any mine, factory, machine shop, or other industrial establishment.

Knowledge.

Knowledge by an employee injured of the defective or unsafe character or condition of any machinery, ways, appliances or structures of such employer shall not be a bar to the recovery for any injury or death caused thereby, unless it shall also appear that such employee fully understood, comprehended and appreciated the dangers incident to the use of such defective machinery, ways, appliances or structures, and thereafter consented to use the same, or continued in the use thereof.

*See General Laws No. 2144*a*.

When death, whether instantaneous or otherwise, results from an injury to an employee received as aforesaid, the personal representative of such employee shall have a right of action therefor against such employer, and may recover damages in respect thereof, for and on behalf, and for the benefit of the widow, children, dependent parents, and dependent brothers and sisters, in order of precedence as herein stated, but no more than one action shall be brought for such recovery. Injuries causing death.

Any contract or agreement, express or implied, made by any such employee to waive the benefits of this section, or any part thereof, shall be null and void, and this section shall not be construed to deprive any such employee or his personal representative, of any right or remedy to which he is now entitled under the laws of this state. Waivers.

The rules and principles of law as to contributory negligence which apply to other cases shall apply to cases arising under this section, except in so far as the same are herein modified or changed. [Enacted March 21, 1872.] Contributory negligence.

SEC. 1971. An employer must in all cases indemnify his employees for losses caused by the former's want of ordinary care. [Enacted March 21, 1872.] Want of care.

The retention of a foreman after knowledge of his incompetency is negligence, and the employer is liable for injuries resulting from such foreman's negligent acts: 47 Pac. Rep. 773.

SEC. 1975. One who, without consideration, undertakes to do a service for another, is not bound to perform the same, but if he actually enters upon its performance, he must use at least slight care and diligence therein. [Enacted March 21, 1872.] Service without consideration.

SEC. 1976. One who, by his own special request, induces another to instruct him with the performance of a service, must perform the same fully. In other cases, one who undertakes a gratuitous service may relinquish it any time. [Enacted March 21, 1872.] Requested employment.

SEC. 1977. A gratuitous employee, who accepts a written power of attorney, must act under it so long as it remains in force, or until he gives notice to his employer that he will not do so. [Enacted March 21, 1872.] Gratuitous attorney.

Employee for consideration.

SEC. 1978. One who, for a good consideration, agrees to serve another, must perform the service, and must use ordinary care and diligence therein, so long as he is thus employed. [Enacted March 21, 1872.]

Interested volunteer.

SEC. 1979. One who is employed at his own request to do that which is more for his own advantage than for that of his employer, must use great care and diligence therein to protect the interest of the latter. [Enacted March 21, 1872.]

Duration of contract.

SEC. 1980. A contract to render personal service, other than a contract of apprenticeship, as provided in the chapter on master and servant, can not be enforced against the employee beyond the term of two years from the commencement of service under it; but if the employee voluntarily continues his service under it beyond that time, the contract may be referred to as affording a presumptive measure of the compensation. [Enacted March 21, 1872.]

Directions.

SEC. 1981. An employee must substantially comply with all the directions of his employer concerning the service on which he is engaged, except where such obedience is impossible or unlawful, or would impose new and unreasonable burdens upon the employee. [Enacted March 21, 1872.]

Usage.

SEC. 1982. An employee must perform his service in conformity to the usage of the place of performance, unless otherwise directed by his employer, or unless it is impracticable, or manifestly injurious to his employer to do so. [Enacted March 21, 1872.]

Degree of skill.

SEC. 1983. An employee is bound to exercise a reasonable degree of skill, unless his employer has notice, before employing him, of his want of skill. [Enacted March 21, 1872.]

Same subject.

SEC. 1984. An employee is always bound to use such skill as he possesses, so far as the same is required, for the service specified. [Enacted March 21, 1872.]

The employee may employ others to do the work where his personal attention is not contracted for: 24 Cal. 308.

Acquisitions by virtue of employment.

SEC. 1985. Everything which an employee acquires by virtue of his employment, except the compensation, if any, which is due to him from his employer, belongs to the latter, whether acquired lawfully or unlawfully, or during or after the expiration of the term of his employment. [Enacted March 21, 1872.]

Rendering accounts.

SEC. 1986. An employee must, on demand, render to his employer just accounts of all his transactions in the course of his service, as often as may be reasonable, and must, without demand, give prompt notice to his employer of everything which he receives for his account. [Enacted March 21, 1872.]

Delivery of goods, etc., received.

SEC. 1987. An employee who receives anything on account of his employer, in any capacity other than that of a mere servant, is not bound to deliver it to him until demanded, and is not at liberty to send it to him from a distance, without demand, in any mode involving greater risk than its retention by the employee himself. [Enacted March 21, 1872.]

Priority of employer's business.

SEC. 1988. An employee who has any business to transact on his own account, similar to that intrusted to him by his employer, must always give the latter the preference. [Enacted March 21, 1872.]

Employment of substitute.

SEC. 1989. An employee who is expressly authorized to employ a substitute is liable to his principal only for want of ordinary care in his selection. The substitute is directly responsible to the principal. [Enacted March 21, 1872.]

Negligence.

SEC. 1990. An employee who is guilty of a culpable degree of negligence is liable to his employer for the damage thereby caused to the latter; and the employer is liable to him, if the service is not gratuitous, for the value of such services only as are properly rendered. [Enacted March 21, 1872.]

Duty of survivor of joint servants.

SEC. 1991. When service is to be rendered by two or more persons jointly, and one of them dies, the survivor must act alone, if the service to be rendered is such as he can rightly perform without the aid of the deceased person, but not otherwise. [Enacted March 21, 1872.]

Termination of employment.

SEC. 1996. (As amended by chapter 157, acts of 1901.) Every employment in which the power of the employee is not coupled with an interest in its subject is terminated by notice to him of:

1. The death of the employer; or,

2. His legal incapacity to contract.

The parties to a contract of employment may, however, in writing, provide that it shall, notwithstanding the death of the employer, continue obligatory for and against his heirs and personal representatives, provided their liability shall be restricted to property received from and under him. [Enacted March 21, 1872.]

Same subject.

SEC. 1997. Every employment is terminated:

1. By the expiration of its appointed term;

2. By the extinction of its subject;

3. By the death of the employee; or,

4. By his legal incapacity to act as such. [Enacted March 21, 1872.]

Service after death of employer.

SEC. 1998. An employee, unless the term of his service has expired, or unless he has a right to discontinue it at any time without notice, must continue his service after notice of the death or incapacity of his employer, so far as is necessary to protect from serious injury the interests of the employer's successor in interest, until a reasonable time after notice of the facts has been communicated to such successor. The successor must compensate the employee for such service according to the terms of the contract of employment. [Enacted March 21, 1872.]

Termination of employment.

SEC. 1999. (As amended, Stats. 1915, chap. 433.) An employment, having no specified term, may be terminated at the will of either party, on notice to the other. Employment for a specified term shall mean an employment for a period greater than one month.

SEC. 2000. (As amended, Stats. 1915, chap. 433.) An employment, for a specified term, may be terminated at any time by the employer, in case of any wilful breach of duty by the employee in the course of his employment, or in case of his habitual neglect of his duty or continued incapacity to perform it.

SEC. 2001. (As amended, Stats. 1915, chap. 433.) An employment, for a specified term, may be terminated by the employee at any time, in case of any wilful or permanent breach of the obligations of his employer to him as an employee.

Compensation.

SEC. 2002. (As amended, Stats. 1915, chap. 433.) An employee who is not employed for a specified term, dismissed by his employer, is entitled to compensation for services rendered up to the time of such dismissal.

SEC. 2003. (As amended, Stats. 1915, chap. 433.) An employee who is not employed for a specified term and who quits the service of his employer, is entitled to compensation for services rendered up to the time of such quitting.

Master and servant.

Servant defined.

SEC. 2009. A servant is one who is employed to render personal service to his employer, otherwise than in the pursuit of an independent calling, and who in such service remains entirely under the control and direction of the latter, who is called his master. [Enacted March 21, 1872.]

Term of employment.

SEC. 2010. A servant is presumed to have been hired for such length of time as the parties adopt for the estimation of wages. A hiring at a yearly rate is presumed to be for one year; a hiring at a daily rate, for one day; a hiring by piecework, for no specified term. [Enacted March 21, 1872.]

Presumption.

SEC. 2011. In the absence of any agreement or custom as to the term of service, the time of payment, or the rate or value of wages, a servant is presumed to be hired by the month, at a monthly rate of reasonable wages, to be paid when the service is performed. [Enacted March 21, 1872.]

Renewal by continuance.

SEC. 2012. Where, after the expiration of an agreement respecting the wages and the term of service, the parties continue the relation of master and servant, they are presumed to have renewed the agreement for the same wages and term of service. [Enacted March 21, 1872.]

Time controlled by employer.

SEC. 2013. The entire time of a domestic servant belongs to the master; and the time of other servants to such an extent as is usual in the business in which they serve, not exceeding in any case ten hours in the day. [Enacted March 21, 1872.]

All the services rendered by one who receives a regular salary, if of the same nature as his regular duties, are presumed to be paid for by the salary: 9 Cal. 198.

Delivery of goods, etc., received.

SEC. 2014. A servant must deliver to his master, as soon as with reasonable diligence he can find him, everything that he receives for his account, without demand; but he is not bound, without orders from his master, to send anything to him through another person. [Enacted March 21, 1872.]

Employer may discharge, when.

SEC. 2015. A master may discharge any servant, other than an apprentice, whether engaged for a fixed term or not:

1. If he is guilty of misconduct in the course of his service, or of gross immorality, though unconnected with the same; or,

2. If, being employed about the person of the master, or in a confidential position, the master discovers that he has been

guilty of misconduct, before or after the commencement of his service, of such a nature that, if the master had known or contemplated it, he would not have so employed him. [Enacted March 21, 1872.]

Seamen.

SEC. 2049. All persons employed in the navigation of a ship, or upon a voyage, other than the master and mate, are to be deemed seamen within the provisions of this code. [Enacted March 21, 1872.]

SEC. 2050. The mate and seamen of a ship are engaged by the master, and may be discharged by him at any period of the voyage, for wilful and persistent disobedience or gross disqualification, but can not otherwise be discharged before the termination of the voyage. [Enacted March 21, 1872.]

SEC. 2051. A mate or seaman is not bound to go to sea in a ship that is not seaworthy; and if there is reasonable doubt of its seaworthiness, he may refuse to proceed until a proper survey has been had.

SEC. 2052. A seaman can not, by reason of any agreement, be deprived of his lien upon a ship, or of any remedy for the recovery of his wages to which he would otherwise have been entitled. Any stipulation by which he consents to abandon his right of wages in case of loss of the ship, or to abandon any right he may have or obtain in the nature of salvage is void. [Enacted March 21, 1872.]

SEC. 2053. No special agreement entered into by a seaman can impair any of his rights, or add to any of his obligations, as defined by law, unless he fully understands the effect of the agreement, and receives a fair compensation therefor. [Enacted March 21, 1872.]

SEC. 2054. Except as hereinafter provided, the wages of seamen are due when, and so far only as, freightage is earned, unless the loss of freightage is owing to the fault of the owner or master. [Enacted March 21, 1872.]

SEC. 2055. The right of mate or seamen to wages and provisions begins either from the time he begins work, or from the time specified in the agreement for his beginning work, or from his presence on board, whichever first happens. [Enacted March 21, 1872.]

SEC. 2056. Where a voyage is broken up before departure of a ship, the seamen must be paid for the time they have served, and may retain for their indemnity such advances as they have received. [Enacted March 21, 1872.]

SEC. 2057. When a mate or seaman is wrongfully discharged, or is driven to leave the ship by the cruelty of the master on the voyage, it is then ended with respect to him, and he may thereupon recover his full wages. [Enacted March 21, 1872.]

SEC. 2058. In case of loss or wreck of the ship, a seaman is entitled to his wages up to the time of the loss or wreck whether freightage has been earned or not, if he exerts himself to the utmost to save the ship, cargo and stores. [Enacted March 21, 1872.]

SEC. 2059. A certificate from the master or chief surviving officer of a ship, to the effect that a seaman exerted himself to the utmost to save the ship, cargo and stores, is presumptive evidence of the fact. [Enacted March 21, 1872.]

SEC. 2060. Where a mate or seaman is prevented from rendering service by illness or injury, incurred without his fault, in the discharge of his duty on the voyage, or by being wrongfully discharged, or by a capture of the ship, he is entitled to wages notwithstanding; but in case of a capture, a ratable deduction for salvage is to be made. [Enacted March 21, 1872.]

SEC. 2061. If a mate or seaman becomes sick or disabled during the voyage without his fault, the expense of furnishing him with suitable medical advice, medicine, attendance, and other provision for his wants, must be borne by the ship till the close of the voyage. [Enacted March 21, 1872.]

SEC. 2062. If a mate or seaman dies during the voyage, his personal representatives are entitled to his wages to the time of his death, if he would have been entitled to them had he lived to the end of the voyage. [Enacted March 21, 1872.]

SEC. 2063. Desertion of the ship, without cause, or a justifiable discharge by the master during the voyage, for misconduct, or a theft of any part of the cargo or appurtenances of the ship, or a wilful injury thereto or to the ship, forfeits all wages due for the voyage to a mate or seaman thus in fault. [Enacted March 21, 1872.]

SEC. 2064. A mate or seaman may not, under any pretext, ship goods on his own account without permission from the master. [Enacted March 21, 1872.]

Volunteer service—Compensation for.

Volunteer service.

SEC. 2078. One who officiously, and without consent of the real or apparent owner of a thing, takes it into his possession for the purpose of rendering a service about it, must complete such service, and use ordinary care, diligence, and reasonable skill about the same. He is not entitled to any compensation for his service or expenses, except that he may deduct actual and necessary expenses incurred by him about such service from any profits which his service has caused the thing to acquire for its owner, and must account to the owner for the residue. [Enacted March 21, 1872.]

Compensation.

Enforcement of contracts.

Labor contracts.

SEC. 3390. The following obligations can not be specifically enforced:

1. An obligation to render personal service;
2. An obligation to employ another in personal service;

* * * * * * *

[Enacted March 21, 1872.]

CIVIL CODE—APPENDIX.

(Page 967; Stats. 1901, page 75.)

Time for meals to be allowed employees in lumber mills, etc.

SECTION 1. Every person, corporation, copartnership, or company operating a sawmill, shakemill, shingle-mill, or logging camp, in the State of California, shall allow to his or its employees, workmen, and laborers a period of not less than one hour at noon for the midday meal. One hour at noon to be allowed.

SEC. 2. Any person, corporation, copartnership, or company, his or its agents, servants, or managers, violating any of the provisions of this act shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not more than two hundred dollars nor less than one hundred dollars for each violation of the provisions of this act. Penalty.

(Page 967; Stats. 1871–72, page 413.)

Mine regulations—Quartz mines.

SECTION 1. It shall not be lawful for any corporation, association, owner, or owners of any quartz-mining claims within the State of California, where such corporation, association, owner, or owners employ twelve men daily, to sink down into such mine or mines any perpendicular shaft or incline beyond a depth from the surface of three hundred feet without providing a second mode of egress from such mine, by shaft or tunnel, to connect with the main shaft at a depth of not less than one hundred feet from the surface. Escape shaft.

SEC. 2. It shall be the duty of each corporation, association, owner or owners of any quartz mine or mines in this state, where it becomes necessary to work such mines beyond the depth of three hundred feet, and where the number of men employed therein daily shall be twelve or more, to proceed to sink another shaft or construct a tunnel so as to connect with the main working shaft of such mine as a mode of escape from underground accident or otherwise. And all corporations, associations, owner, or owners of mines as aforesaid, working at a greater depth than three hundred Same subject.

feet, not having any other mode of egress than from the main shaft, shall proceed as herein provided.

Liability for violation.

SEC. 3. When any corporation, association, owner, or owners of any quartz mine in this state, shall fail to provide for the proper egress as herein contemplated, and where any accident shall occur, or any miner working therein shall be hurt or injured and from such injury might have escaped if the second mode of egress had existed, such corporation, association, owner, or owners of the mine where the injuries shall have occurred shall be liable to person injured in all damages that may accrue by reason thereof; and an action at law in a court of competent jurisdiction may be maintained against the owner or owners of such mine, which owners shall be jointly or severally liable for such damages. And where death shall ensue from injuries received from any negligence on the part of the owners thereof by reason of their failure to comply with any of the provisions of this act, the heirs or relatives surviving the deceased may commence an action for the recovery of such damages. * * *.

CODE OF CIVIL PROCEDURE.

Exemption of wages from execution.

SEC. 690. (As amended by chapter 479, acts of 1907.) The following property is exempt from execution or attachment, except as herein otherwise specially provided: Exemptions.

* * * * * * *

9. The wages and earnings of all seamen, seagoing fishermen and sealers, not exceeding three hundred dollars, regardless of where or when earned, and in addition to all other exemptions otherwise provided by any law; Seamen's, etc., wages.

10. The earnings of the judgment debtor for his personal services rendered at any time within thirty days next preceding the levy of execution or attachment, when it appears by the debtor's affidavit or otherwise, that such earnings are necessary for the use of his family, residing in this state, supported in whole or in part by his labor; but where debts are incurred by any such person, or his wife or family for the common necessaries of life, or have been incurred at a time when the debtor had no family residing in this state, supported in whole or in part by his labor, the one-half of such earnings above mentioned is nevertheless subject to execution, garnishment or attachment to satisfy debts so incurred; Thirty days' earnings, when.

* * * * * * *

[Enacted March 11, 1872.]

Attorney's fees in suits for wages.

SEC. 924. (As amended by chapter 51, acts of 1907.) The prevailing party in the justices' courts is entitled to costs of the action, and also of any proceedings taken by him in aid of an execution issued upon any judgment recovered therein. In actions for the recovery of wages for labor performed, the court shall add, as part of the cost, in any judgment recovered by the plaintiff, an attorney's fee not exceeding twenty per cent of the amount recovered. [Enacted March 11, 1872.] Fee allowed on recovery.

Wages preferred—In assignments, administration, etc.

SEC. 1204. (As amended by chapter 102, acts of 1901.) When any assignment, whether voluntary or involuntary, is made for the benefit of the creditors of the assignor, or results from any proceeding in insolvency commenced against him, Wages to be paid first in asssignments.

the wages and salaries of miners, mechanics, salesmen, servants, clerks, laborers, and other persons, for services rendered for him within sixty days prior to such assignment, or to the commencement of such proceeding, and not exceeding one hundred dollars each, constitute preferred claims, and must be paid by the trustee or assignee before the claim of any creditor of the assignor or insolvent. [Enacted March 11, 1872.]

In administration.

SEC. 1205. (As amended by chapter 102, acts of 1901.) Upon the death of any employer, the wages, not exceeding one hundred dollars in amount, of each miner, mechanic, salesman, clerk, servant, laborer, or other employee, for work done or services rendered within sixty days prior to such death, must be paid before any other claim against the estate of such employer, except his funeral expenses, and expenses of the last sickness, the allowance to the widow and infant children, and the charges and expenses of administration. [Enacted March 11, 1872.]

In attachments, executions, etc.

SEC. 1206. (As amended by chapter 102, acts of 1901.) Upon the levy of any attachment or execution, not founded upon a claim for labor, any miner, mechanic, salesman, servant, clerk, laborer, or other person who has performed work or rendered services for the defendant within sixty days prior to the levy, may file a verified statement of his claim therefor with the officer executing the writ, and give copies thereof to the debtor and the creditor, and such claim, not exceeding one hundred dollars, unless disputed, must be paid by such officer from the proceeds of such levy remaining in his hands at the filing of such statement. If any claim is disputed, within the time, and in the manner prescribed in section twelve hundred and seven, the claimant must within ten days thereafter commence an action for the recovery of his demand, which action must be prosecuted with due diligence, or his claim to priority of payment is forever barred. The officer must retain in his possession until the determination of such action so much of the proceeds of the writ as may be necessary to satisfy the claim, and if the claimant recovers judgment, the officer must pay the same, including the costs of suit, from such proceeds. [Enacted March 11, 1872.]

This section gives only a preferred claim against the debtor, but does not give any lien upon his property: 74 Pac. Rep. 1037.

PENAL CODE.

Protection of employees as voters.

Coercion, etc., by employers.

SEC. 59. * * * It is not lawful for any employer, in paying his employees the salary or wages due them, to inclose their pay in "pay envelopes" upon which there is written or printed the name of any candidate, or any political mottoes, devices, or arguments containing threats express or implied, intended or calculated to influence the political opinions or actions of such employees. Nor is it lawful for any employer, within ninety days of any election, to put up or otherwise exhibit in his factory, workshop, or other establishment or place where his workmen or employees may be working, any handbill or placard containing any threat, notice, or information, that in case any particular ticket of a political party, or organization, or candidate shall be elected, work in his place or establishment will cease, in whole or in part, or his place or establishment be closed up, or the salaries or wages of his workmen or employees be reduced, or threats, express or implied, intended or calculated to influence the political opinions or actions of his workmen or employees. This section applies to corporations as well as individuals, and any person or corporation violating the provisions of this section is guilty of a misdemeanor, and any corporation violating this section shall forfeit its charter. [Enacted February 14, 1872.]

Penalty.

Certain employments of children forbidden.

Mendicant, acrobatic, etc., occupations.

SEC. 272. Any person, whether as parent, relative, guardian, employer, or otherwise, having the care, custody, or control of any child under the age of sixteen years, who exhibits, uses, or employs, or in any manner, or under any pretense, sells, apprentices, gives away, lets out, or disposes of any such child to any person, under any name, title, or pretense, for or in any business, exhibition, or vocation, injurious to the health or dangerous to the life or limb of such child, or in or for the vocation, occupation, service, or purpose of singing, playing on musical instruments, rope or wire walking, dancing, begging, or peddling, or as a gymnast, acrobat, contortionist, or rider, in any place whatsoever, or for or

in any obscene, indecent or immoral purposes, exhibition, or practice whatsoever, or for or in any mendicant or wandering business whatsoever, or who causes, procures, or encourages such child to engage therein, is guilty of a misdemeanor, and punishable by a fine of not less than fifty nor more than two hundred and fifty dollars, or by imprisonment in the county jail for a term not exceeding six months, or by both such fine and imprisonment. Nothing in this section contained applies to or affects the employment or use of any such child, as a singer or musician in any church, school, or academy, or the teaching or learning of the science or practice of music; or the employment of any child as a musician at any concert or other musical entertainment, on the written consent of the mayor of the city or president of the board of trustees of the city or town where such concert or entertainment takes place. [Added by code amdts., 1875-76, p. 110.]

This section is constitutional: 86 Pac. Rep. 809.

Hiring, etc.

SEC. 273. Every person who takes, receives, hires, employs, uses, exhibits, or has in custody, any child under the age, and for any of the purposes mentioned in the preceding section, is guilty of a like offense, and punishable by a like punishment as therein provided. [Added by Stats. 1905, p. 759.]

Sending as messengers.

SEC. 273*e*. Every telephone, special delivery company or association, and every other corporation or person engaged in the delivery of packages, letters, notes, messages, or other matter, and every manager, superintendent, or other agent of such person, corporation, or association, who sends any minor in the employ or under the control of any such person, corporation, association, or agent, to the keeper of any house of prostitution, variety theater, or other place of questionable repute, or to any person connected with, or any inmate of, such house, theater, or other place, or who permits such minor to enter such house, theater, or other place, is guilty of a misdemeanor. [Added by Stats. 1905, p. 760.]

Same subject.

SEC. 273*f*. (Added by chap. 294, acts of 1907.) Any person, whether as parent, guardian, employer, or otherwise, and any firm or corporation, who as employer or otherwise, shall send, direct, or cause to be sent or directed to any saloon,

gambling house, house of prostitution, or other immoral place, any minor under the age of eighteen, is guilty of a misdemeanor.

Mismanagement of steam boilers.

SEC. 349. Every engineer or other person having charge of any steam boiler, steam engine, or other apparatus for generating or employing steam, used in any manufactory, railway, or other mechanical works, who wilfully, or from ignorance, or gross neglect, creates, or allows to be created such an undue quantity of steam as to burst or break the boiler or engine, or apparatus, or cause any other accident whereby human life is endangered, is guilty of a felony. [Enacted February 14, 1872.] Negligence endangering life.

Misrepresentation—Kind of labor employed.

SEC. 349*a*. (As amended, Stats. 1911, chapter 181.) Any person engaged in the production, manufacture, or sale of any article of merchandise in this state, who, by any imprint, label, trade-mark, tag, stamp, or other inscription or device, placed or impressed upon such article, or upon the cask, box, case, or package containing the same, misrepresents or falsely states the kind, character, or nature of the labor employed or used, or the extent of the labor employed or used, or the number or kind of persons exclusively employed or used, or that a particular or distinctive class or character of laborers was wholly and exclusively employed, when in fact another class, or character, or distinction of laborers was used or employed either jointly or in any wise supplementary to such exclusive class, character, or distinction of laborers, in the production or manufacture of the article to which such imprint, label, trade-mark, tag, stamp, or other inscription or device is affixed, or upon the cask, box, case or package containing the same, is guilty of a misdemeanor, and punishable by a fine of not less than one hundred dollars nor more than five hundred dollars, or by imprisonment in the county jail for not less than twenty nor more than ninety days, or both. [Added by Stats. 1905, p. 669.]

SEC. 349*b*. Any trade union, labor association, or labor organization, organized and existing in this state, whether incorporated or not, which shall have adopted and registered a label or trademark in accordance with the provisions of section three thousand two hundred of the Political Code, shall Labor organization has exclusive right to label.

have the exclusive right to the ownership, use and control of such label or trademark, and any person who, without having an unrevoked written authority from such trade union, labor association or labor organization, wilfully reproduces, copies, imitates, forges or counterfeits, or procures to be reproduced, copied, imitated, forged or counterfeited such label or trademark, with intent to sell or to assist other persons to sell, any goods to which such reproduced, copied, imitated, forged or counterfeited label or trademark is affixed as having been made, manufactured or produced in whole or in part by labor, laborers or employees, members of or allied or associated with such trade union, labor association or labor organization, is guilty of a misdemeanor, and punishable by a fine of not more than five hundred dollars or by imprisonment in the county jail for not more than ninety days, or by both such fine and imprisonment. [Added Stats. 1915, chap. 487.]

SEC. 349*c*. Any person engaged in the production, manufacture or sale of any article of merchandise in this state, or any person engaged in the performance of any acts or services of a private, public or quasi-public nature for profit, who wilfully misrepresents or falsely states that members of trades unions, labor associations or labor organizations were engaged or employed in the manufacture, production or sale of such article or in the performance of such acts or services, when in fact labor, laborers or employees not members of trades unions, labor associations or labor organizations were exclusively used in the manufacture, production or sale of such articles or in the performance of such acts or service, shall be guilty of a misdemeanor, and punishable by a fine of not more than five hundred dollars, or by imprisonment in the county jail for not more than ninety days, or by both such fine and imprisonment. [Added Stats. 1915, chap. 487.]

Negligence of engineers, etc.

SEC. 368. Every person having charge of any steam boiler or steam engine, or other apparatus for generating or employing steam, used in any manufactory, or on any railroad, or in any vessel, or in any kind of mechanical work, who wilfully, or from ignorance or neglect, creates, or allows to be created, such an undue quantity of steam as to burst or break the boiler, engine, or apparatus, or to cause any other accident whereby the death of a human

being is produced, is punishable by imprisonment in the state prison for not less than one nor more than ten years. [Enacted February 14, 1872.]

Hatch-tenders on vessels.

Hatch-tenders for vessels of 50 tons capacity.

SEC. 368*a*. (Added by chap. 290, Stats. 1913.) Any person, firm or corporation engaged in the business of loading or unloading ships or vessels, or who contracts to load or unload a ship or vessel, or who shall be in charge of a ship or vessel while the same is being loaded or unloaded, or who is authorized to load or unload any ship or vessel, having a carrying capacity of fifty tons or greater, shall employ and supply upon every ship or vessel while being loaded or unloaded, a person over the age of twenty-one years to act as signal man or hatch-tender whose sole duty it shall be to observe the operations of loading or unloading of each working hatch on such ship or vessel, and to warn all persons engaged in the operation of loading or unloading of any possibility of any injury to any of the articles of which the cargo is composed, or of danger to any person engaged or being in or about the said ship or vessel while the same is being loaded or unloaded as aforesaid.

Penalty.

Any person, firm, or corporation violating the provisions of this act is guilty of a misdemeanor.

Of conductors, etc., on trains.

SEC. 369. Every conductor, engineer, brakeman, switchman, or other person having charge, wholly or in part, of any railroad, car, locomotive, or train, who wilfully or negligently suffers or causes the same to collide with another car, locomotive, or train, or with any other object or thing whereby the death of a human being is produced, is punishable by imprisonment in the state prison for not less than one year nor more than ten years. [Enacted February 14, 1872.]

Street cars to be provided with brakes, etc.

Brakes required.

SEC. 369*a*. Any person, company, or corporation, operating cars on the streets of cities or towns, or on the county roads within the state, for the conveyance of passengers, propelled by means of wire ropes attached to stationary engines, or by electricity or compressed air, who runs, operates, or uses any car or dummy, unless each car and dummy, while in use, is fitted with a brake capable of bring-

ing such car to a stop within a reasonable distance, and a suitable fender or appliance placed in front or attached to the trucks of such dummy or car, for the purpose of removing and clearing obstructions from the track, and preventing any obstacles, obstructions, or person on the track from getting under such dummy or car, and removing the same out of danger, and out of the way of such dummy or car, is guilty of a misdemeanor. Where the board of supervisors of any county, or the city council or other governing body of any city, by ordinance, order, or resolution, prescribe the fender or brake to be used as aforesaid, then a compliance with such ordinance, order, or resolution must be deemed a full compliance with the provisions of this section. [Stats. 1905, p. 766.]

Intoxication and negligence of railroad employees.

Engineers, conductors, etc.

SEC. 369*f*. Any person employed upon any railroad as engineer, conductor, baggagemaster, brakeman, switchman, fireman, bridge tender, flagman, or signalman or having charge of the regulation or running of trains upon such railroad, in any manner whatever, who becomes or is intoxicated while engaged in the discharge of his duties, is guilty of a misdemeanor; and if any person so employed as aforesaid, by reason of such intoxication, does any act, or neglects any duty, which act or neglect causes the death of, or bodily injury to, any person or persons, he is guilty of a felony. [Added by Stats. 1905, p. 767.]

Negligence of employees on steamboats, etc.

Negligence of captain, etc., of steamboats.

SEC. 384. Every captain or other person having charge of any steamboat used for the conveyance of passengers, or of the boilers and engines thereof, who, from ignorance or gross neglect, or for the purpose of excelling any other boat in speed, creates, or allows to be created, such an undue quantity of steam as to burst or break the boiler, or any apparatus or machinery connected therewith, by which bursting or breaking human life is endangered, is guilty of a felony. [Enacted February 14, 1872.]

Same.

SEC. 391. Every person who is intoxicated while in charge of a locomotive engine, or while acting as conductor or driver upon any railroad train or car, whether propelled by

steam or drawn by horses, or while acting as train dispatcher, or as telegraph operator, receiving or transmitting dispatches in relation to the movement of trains, is guilty of a misdemeanor. [Enacted February 14, 1872.]

Negligence endangering life.

SEC. 393. Every engineer, conductor, brakeman, switch tender, or other officer, agent, or servant of any railroad company, who is guilty of any wilful violation or omission of his duty as such officer, agent or servant, whereby human life or safety is endangered, the punishment of which is not otherwise prescribed, is guilty of a misdemeanor. [Enacted February 14, 1872.]

Protection of employees on buildings.

Unsafe scaffolding, etc.

SEC. 402*c*. Any person or corporation employing or directing another to do or perform any labor in the construction, alteration, repairing, painting or cleaning of any house, building or structure within this state, who knowingly or negligently furnishes or erects or causes to be furnished or erected for the performance of such labor, unsafe or improper scaffolding, slings, hangers, blocks, pulleys, stays, braces, ladders, irons, ropes or other mechanical contrivances, or who hinders or obstructs any officer attempting to inspect the same under the provisions of * * * [section 12 of act No. 1828, General Laws] or who destroys, or defaces or removes any notice posted thereon by such officer or permits the use thereof, after the same has been declared unsafe by such officer, contrary to the provisions of said section twelve of said act, shall be guilty of a misdemeanor. [Added by Stats. 1903, p. 216.]

Protection of workmen as members of the National Guard.

Discrimination forbidden.

SEC. 421. No association or corporation shall by any constitution, rule, by-law, resolution, vote or regulation, discriminate against any member of the national guard of California because of his membership therein. Any person who wilfully aids in enforcing any such constitution, rule, by-law, resolution, vote or regulation against any member of said national guard of California, is guilty of a misdemeanor. [Added by Stats. 1905, p. 190.]

Employers to report names of taxable employees.

Employers to report.

SEC. 434. Every person who, when requested by the collector of taxes or licenses, refuses to give to such collector the name and residence of each man in his employment, or to give such collector access to the building or place where such men are employed, is guilty of a misdemeanor. [Enacted February 14, 1872.]

Obtaining labor by false pretenses.

SEC. 532. Every person who knowingly and designedly, by any false or fraudulent representation or pretense, defrauds any other person of money, labor, or property, whether real or personal, or who causes or procures others to report falsely of his wealth or mercantile character, and by thus imposing upon any person obtains credit, and thereby fraudulently gets possession of money or property, or obtains the labor or service of another, is punishable in the same manner and to the same extent as for larceny of the money or property so obtained.

Employees on public works.

Eight hours a day's work.

SEC. 653c. The time of service of any laborer, workman, or mechanic employed upon any of the public works of the State of California, or of any political subdivision thereof, or upon work done for said state, or any political subdivision thereof, is hereby limited and restricted to eight hours during any one calendar day; and it shall be unlawful for any officer, or agent of said state, or of any political subdivision thereof, or for any contractor or subcontractor doing work under contract upon any public works aforesaid, who employs, or who directs or controls, the work of any laborer, workman, or mechanic, employed as herein aforesaid, to require or permit such laborer, workman, or mechanic, to labor more than eight hours during any one calendar day, except in cases of extraordinary emergency, caused by fire, flood, or danger to life or property, or except to work upon public military or naval defenses or works in time of war. Any officer or agent of the State of California, or of any political subdivision thereof, making or awarding, as such officer or agent, any contract, the execution of which involves or may involve the employment of any laborer, workman, or mechanic upon any of the

public works, or upon any work, hereinbefore mentioned, shall cause to be inserted therein a stipulation which shall provide that the contractor to whom said contract is awarded shall forfeit, as a penalty, to the state or political subdivision in whose behalf the contract is made and awarded, ten dollars for each laborer, workman, or mechanic employed, in the execution of said contract, by him, or by any subcontractor under him, upon any of the public works, or upon any work, hereinbefore mentioned, for each calendar day during which such laborer, workman, or mechanic is required or permitted to labor more than eight hours in violation of the provisions of this act; and it shall be the duty of such officer or agent to take cognizance of all violations of the provisions of said act committed in the course of the execution of said contract, and to report the same to the representative of the state or political subdivision, party to the contract, authorized to pay to said contractor moneys becoming due to him under the said contract, and said representative, when making payment of moneys thus due, shall withhold and retain therefrom all sums and amounts which shall have been forfeited pursuant to the herein said stipulation. Any officer, agent, or representative of the State of California, or of any political subdivision thereof, who shall violate any of the provisions of this section, shall be deemed guilty of misdemeanor, and shall upon conviction be punished by fine not exceeding five hundred dollars, or by imprisonment, not exceeding six months, or by both such fine and imprisonment, in the discretion of the court. [Added by Stats. 1905, p. 666.]

Retaining wages.

SEC. 653*d*. Every person who employs laborers upon public works, and who takes, keeps, or receives for his own use any part or portion of the wages due to any such laborers from the state or municipal corporation for which such work is done, is guilty of a felony. [Added by Stats. 1905, p. 667.]

Blacklisting.

Blacklisting prohibited.

SEC. 653*e*. (Added by Stats. 1913, chap. 350.) Any person, firm or corporation, or officer or director of a corporation, or superintendent, manager or other agent of such person, firm or corporation who, after having discharged an employee from the service of such person, firm or corporation or after having paid off an employee voluntarily leaving such service,

shall, by word, writing or any other means whatsoever, misrepresent and thereby prevent or attempt to prevent such former employee from obtaining employment with any other person, firm or corporation, shall be punished by a fine not exceeding two thousand dollars and shall be liable in treble damages to any such employee sustaining damages through a violation of this section. Any person, firm or corporation who shall knowingly cause, suffer or permit an agent, superintendent, manager or other employee in his or its employ to commit a violation of this section, or who shall fail to take all reasonable steps within his or its power to prevent such violation of this act, shall be guilty of a violation of the provisions of this section and be subject to the penalty hereinbefore provided. Nothing in this section shall be construed to prevent an employer as hereinbefore defined or an agent, employee, superintendent or manager of such employer to furnish, upon special request therefor, a truthful statement concerning the reason for the discharge of an employee or why an employee voluntarily left the service of the employer; *provided, however*, that if such statement shall in connection therewith furnish any mark, sign or other means whatever conveying information different from that expressed by words therein, such fact, or the fact that such statement or other means of furnishing information was given without a special request therefor, shall be prima facie evidence of a violation of the provisions of this section.

Protection of employees as members of labor organizations.

Restraining employees from membership in union.

SEC. 679. Any person, or corporation within this state, or agent or officer on behalf of such person or corporation, who shall hereafter coerce or compel any person or persons to enter into an agreement, either written or verbal, not to join or become a member of any labor organization, as a condition of such person or persons securing employment or continuing in the employment of any such person or corporation, shall be guilty of a misdemeanor. [Added by Stats. 1893, p. 176.]

Payment of wages in barrooms, etc.

SEC. 680. Every person who shall pay any employee his wages, or any part thereof, while such employee is in any saloon, barroom, or other place where intoxicating liquors are sold at retail, unless said employee is employed in such saloon, barroom, or such other place where intoxicating liquors are sold, shall be deemed guilty of a misdemeanor. [Added by Stats. 1901, p. 660.]

Employees not to be paid in barrooms.

PENAL CODE—APPENDIX.

(Page 736; Stats. 1903, page 289.)

Labor combinations not unlawful.

Labor agreements not conspiracy.

SECTION 1. No agreement, combination, or contract by or between two or more persons to do or procure to be done, or not to do or procure not to be done, any act in contemplation or furtherance of any trade dispute between employers and employees in the State of California shall be deemed criminal, nor shall those engaged therein be indictable or otherwise punishable for the crime of conspiracy, if such act committed by one person would not be punishable as a crime, nor shall such agreement, combination, or contract be considered as in restraint of trade or commerce, nor shall any restraining order or injunction be issued with relation thereto. Nothing in this act shall exempt from punishment, otherwise than as herein excepted, any persons guilty of conspiracy, for which punishment is now provided by any act of the legislature, but such act of the legislature shall, as to the agreements, combinations, and contracts hereinbefore referred to, be construed as if this act were therein contained; *provided*, that nothing in this act shall be construed to authorize force or violence, or threats thereof.

(Page 797; Stats. 1903, page 269.)

Employment of labor—False representations.

False statement.

SECTION 1. (As amended, Stats. 1915, chap. 45.) It shall be unlawful for any person, partnership, company, corporation, association, or organization of any kind, directly or through any agent or attorney, to induce, influence, persuade, or engage any person to change from one place to another in this state or to change from any place in any state, territory, or country to any place in this state, or to change from any place in this state to any place in any state, territory or country, to work in any branch of labor, through or by means of knowingly false representations, whether spoken, written, or advertised in printed form, concerning the kind or character of such work, the compensation therefor, the sanitary conditions relating to or surrounding it, or the existence

or non-existence of any strike, lockout, or other labor dispute affecting it and pending between the proposed employer or employers and the persons then or last theretofore engaged in the performance of the labor for which the employee is sought. Strikes, etc.

SEC. 2. Any violation of section one or section two hereof shall be deemed a misdemeanor, and shall be punished by a fine of not exceeding two thousand dollars or by imprisonment for not more than one year, or by both such fine and imprisonment. Penalty.

GENERAL LAWS.

ACT No. 128.

(Stats. 1915, chap. 417.)

Employment of aliens on public works.

Only citizens for public work.

SECTION 1. No person except a native-born or naturalized citizen of the United States, shall be employed in any department of the state, county, city and county or city government in this state; *provided, however*, that nothing herein contained shall prohibit the employment as a member of the faculty or teaching force in public schools of this state, nor in schools supported in whole or in part by the state, of any person who has declared his intention to become a citizen of the United States, nor of any native-born woman of the United States who has married a foreigner; *and provided, further*, that the prohibitions of this act shall not apply to any member of the faculty or teaching force of any college or university supported in whole or in part by the state, nor to any specialist or expert temporarily employed by any department of the state, or any county, city and county or city and engaged in special investigation.

Exceptions.

Unlawful to employ persons other than citizens.

SEC. 2. It shall be unlawful for any person, whether elected, appointed or commissioned to fill any office in either the state, county, city and county or city government of this state, or in any department thereof, to appoint or employ any person to perform any duties whatsoever, unless such person so appointed or employed be a native-born or naturalized citizen of the United States, subject nevertheless, to the exceptions contained in section one of this act.

No payment for persons other than citizens.

SEC. 3. No money shall be paid out of the state treasury or out of the treasury of any county, or city and county or city, to any person employed in any of the offices mentioned in section two of this act unless such person shall be a native-born or naturalized citizen of the United States, subject to the exceptions contained in section one of this act.

Term defined.

SEC. 4. As used in this act the term "person who has declared his intention to become a citizen" shall not include any person who fails to secure his certificate of naturalization

within six months after the time that he is entitled by law to secure the same.

Previous payments validated.

SEC. 5. No action shall be authorized or maintained for the recovery of money heretofore paid to any member of the faculty or teaching force of any public school of this state, or any school, college or university supported in whole or in part by the state, and all payments so made are hereby approved and declared valid.

Repealed

SEC. 6. An act entitled, "An act to secure to native-born and naturalized citizens of the United States the exclusive right to be employed in any department of the state, county, city and county, or incorporated city or town government in this state," approved March 23, 1901, is hereby repealed and all other acts or parts of acts in conflict with this act are hereby repealed.

ACT No. 219.

(Stats. 1891, page 49.)

State board of arbitration and conciliation.

Qualifications of members.

SECTION 1. On or before the first day of May of each year, the governor of the state shall appoint three competent persons to serve as a state board of arbitration and conciliation. One shall represent the employers of labor, one shall represent labor employees, and the third member shall represent neither, and shall be chairman of the board. They shall hold office for one year and until their successors are appointed and qualified. If a vacancy occurs, as soon as possible thereafter the governor shall appoint some one to serve the unexpired terms; *provided, however*, that when the parties to any controversy or difference, as provided in section two of this act, do not desire to submit their controversy to the state board, they may by agreement each choose one person, and the two shall choose a third, who shall be chairman and umpire, and the three shall constitute a board of arbitration and conciliation for the special controversy submitted to it, and shall for that purpose have the same powers as the state board. The members of the said board or boards, before entering upon the duties of their office, shall be sworn to faithfully discharge the duties thereof. They shall adopt

Special boards.

such rules of procedure as they may deem best to carry out the provisions of this act.

Duties of board.

SEC. 2. Whenever any controversy or difference exists between an employer, whether an individual, copartnership, or corporation, which if not arbitrated, would involve a strike or lockout, and his employees, the board shall, upon application, as hereinafter provided, and as soon as practicable thereafter, visit, if necessary, the locality of the dispute and make careful inquiry into the cause thereof, hear all persons interested therein who may come before them, advise the respective parties what, if anything, ought to be done or submitted to by either, or both, to adjust said dispute and make a written decision thereof. This decision shall at once be made public, and shall be recorded upon proper books of record to be kept by the board.

Application.

SEC. 3. Said application shall be signed by said employer, or by a majority of his employees in the department of the business in which the controversy or difference exists, or their duly authorized agent, or by both parties, and shall contain concise statement of the grievances complained of, and a promise to continue on in business or at work, without any lockout or strike, until the decision of said board, which must, if possible, be made within three weeks of the date of filing the application. Immediately upon receipt of said application, the chairman of said board shall cause public notice to be given of the time and place for hearing. Should the petitioners fail to keep the promise made therein, the board shall proceed no further thereupon without the written consent of the adverse party. And the party violating the contract shall pay the extra cost of the board entailed thereby. The board may then reopen the case and proceed to the final arbitration thereof as provided in section two hereof.

Hearing.

Decision.

SEC. 4. The decision rendered by the board shall be binding upon the parties who join in the application for six months, or until either party has given the other a written notice of his intention not to be further bound by the conditions thereof after the expiration of sixty days or any time agreed upon by the parties, which agreement shall be entered as a part of the decision. Said notice may be given to the

employees by posting a notice thereof in three conspicuous places in the shop or factory where they work.

Complaints may be submitted.

SEC. 5. Both employers and employees shall have the right at any time to submit to the board complaints or grievances and ask for an investigation thereof. The board shall decide whether the complaint is entitled to a public investigation, and if they decide in the affirmative, they shall proceed to hear testimony, after giving notice to all parties concerned, and publish the result of their investigations as soon as possible thereafter.

Expense borne by state.

SEC. 6. The arbitrators hereby created shall be paid five dollars per day for each day of actual service, and also their necessary traveling and other expenses incident to the duties of their office shall be paid out of the state treasury; but the expenses and salaries hereby authorized shall not exceed the sum of twenty-five hundred dollars for the two years.

ACT No. 1024.

(Stats. 1911, chap. 499.)

Electricity—Regulating erection of poles, etc.

SECTION 1. (As amended, Stats. 1915, chap. 600.) No commission, officer, agent or employee of the State of California, or of any city and county or city or county or other political subdivision thereof, and no other person, firm, or corporation shall—

(*a*) Run, place, erect or maintain any wire or cable used to carry or conduct electricity, on any pole, or any crossarm, bracket or other appliance attached to such pole, within a distance of thirteen inches from the center line of said pole; *provided*, that the foregoing provisions of this paragraph (*a*) shall be held not to apply to telephone, telegraph or other "signal" wires or cables which are attached to a pole to which is attached no wire or cable other than telephone, telegraph or other "signal" wire or cable, except within the corporate limits of any city or town which shall have been incorporated as a municipality, nor shall the foregoing provisions be held to apply to such wires or cables in cases where the same are placed vertically on poles, nor to "bridle" or "jumper" wires on any pole which are attached to telephone, telegraph

Provisions not applicable to telephone wires, etc.

or other "signal" wires on the same pole, nor to any "aerial" cable, as between such cable and any pole on which it originates or terminates; *and further provided*, that telephone toll lines may be exempt from the provisions of this paragraph (*a*) provided proper evidence introduced before the railroad commission of the State of California proves to the satisfaction of said railroad commission, that compliance with the provisions of this paragraph (*a*) would seriously interfere with long distance telephone transmission; *and further provided*, that the provisions of this paragraph (*a*) shall not be held to apply to wires run from "lead" wires to arc or incandescent lamps nor to transformers placed upon poles, nor to any wire or cable where the same is attached to the top of a pole, as between it and said pole, nor to any "aerial" cable containing telephone, telegraph or other "signal" wires where the same is attached to a pole on which no other wires or cables than wires continuing from said cable are maintained; *provided*, that electric light or power wires or cables are in no case maintained on the same side of the street or highway on which said "aerial" cable is placed.

Electric wire within thirteen inches of pole.

(*b*) Run, place, erect or maintain in the vicinity of any pole (and unattached thereto) within the distance of thirteen inches from the center line of said pole, any wire or cable used to conduct or carry electricity, or place, erect or maintain any pole (to which is attached any wire or cable used to conduct or carry electricity) within the distance of thirteen inches (measured from the center of such pole) from any wire or cable used to conduct or carry electricity; *provided*, that as between any wire or cable and any pole, as in the paragraph (*b*) named, only the wire, cable or pole last in point of time run, placed or erected, shall be held to be run, placed, erected or maintained in violation of the provisions of this paragraph; *and provided, further*, that the provisions of this paragraph (*b*) shall not be held to apply to telephone, telegraph or other "signal" wires or cables on poles to which are attached no other wires, as between such wires and poles to which are attached no other wires or cables than telephone, telegraph or other "signal" wires; *provided*, such wires, cables and poles are not within the corporate limits of any town or city which shall have been incorporated as a munici-

Last wire, etc., run in violation.

pality; *and further provided*, that telephone toll lines may be exempt from this paragraph (*b*) provided proper evidence introduced before the railroad commission of the State of California, proves to the satisfaction of the said railroad commission, that compliance with the provisions of this paragraph (*b*) would seriously interfere with long distance telephone transmission.

Wires within four feet of each other.

(*c*) Run, place, erect or maintain, above ground, within the distance of four feet from any wire or cable conducting or carrying less than six hundred volts of electricity, any wire or cable which shall conduct or carry at any one time more than six hundred volts of electricity, or run, place, erect or maintain within the distance of four feet from any wire or cable which shall conduct or carry at any one time more than six hundred volts of electricity any wire or cable conducting or carrying less than six hundred volts of electricity; *provided*, that the foregoing provisions of this paragraph (*c*) shall be held not to apply to any wires or cables attached to a transformer, arc or incandescent lamp within a distance of four feet (measured along the line of said wire or cable), from the point where such wire or cable is attached to such transformer, arc or incandescent lamp, nor to wires or cables within buildings or other structures, nor to wires or cables where the same are placed vertically on poles, or to any "lead" wires or cables between the points where the same are made to leave any pole for the purpose of entering any building or other structure and the point at which they are made to enter such building or structure; *and provided, further*, that as between any two wires or cables, or any wire or any cable, run, placed, erected or maintained in violation of the provisions of this paragraph (*c*), only the wire or cable last in point of time run, placed or erected shall be held to be run, placed, erected or maintained thus in violation of said provisions; *and further provided*, that where no more than one crossarm is maintained on a pole, all the wires or cables conducting or carrying at any one time more than six hundred volts of electricity shall be placed on the crossarm on one side of the pole, and all the wires or cables conducting or carrying less than six hundred volts of electricity shall be placed on the crossarm on the other side of the pole; *and further pro-*

Two systems occupying same poles.

vided, that the space between any wire or cable conducting or carrying at any one time more than six hundred volts of electricity and any wire or cable carrying less than said voltage shall be at least thirty-six inches clear measurement in a horizontal line. Where the foregoing provisions of this paragraph (*c*) can not be complied with, the railroad commission of the State of California may grant permission for the following form of construction: where two or more systems for the distribution of electric light or power occupy the same poles with wires or cables, all wires or cables conducting or carrying at any one time more than six hundred volts of electricity may be placed on the crossarms on one side of the pole, and all wires or cables conducting or carrying less than said voltage, shall in such case, be placed on the crossarms on the other side of the pole; *and further provided*, that the space between any wire or cable conducting or carrying at any one time more than six hundred volts of electricity and any wire or cable conducting or carrying less than said voltage shall be at least thirty-six inches in measurement in a horizontal line; *and further provided*, that in such construction all crossarms shall be at least thirty-six inches apart in a vertical line.

Crossarms holding wire carrying more than 600 volts to be painted yellow.

(*d*) Run, place, erect or maintain any wire or cable which shall conduct or carry at any one time more than six hundred volts of electricity, without causing each crossarm, or such other appliance as may be used in lieu thereof, to which such wire or cable is attached to be kept at all times painted a bright yellow color, or, on such crossarm, or other appliance used in lieu thereof, shall be placed signs, providing, in white letters on a green background, not less than three (3) inches in height the words "high voltage" on the face and back of each crossarm. The provisions of this paragraph (*d*) shall not be held to apply to crossarms to which are attached wires or cables carrying or conducting more than ten thousand volts of electricity, and which are situated outside the corporate limits of any town or city which shall have been incorporated as a municipality.

Guy wires to be insulated.

(*e*) Run, place, erect or maintain any "guy" wire or "guy" cable attached to any pole or appliance to which is attached any wire or cable used to conduct or carry electricity, with-

out causing said "guy" wire or "guy" cable to be effectively insulated at all times at a distance of not less than four (4) feet nor more than eight (8) feet (measured along the line of said wire or cable) from the upper end thereof, and at a point not less than eight (8) feet vertically above the ground from the lower end thereof; *and further provided*, that wherever two or more "guy" wires or "guy" cables are attached to the same pole and same anchorage pole there shall be at least one foot, vertical space, between the points of attachment; *and further provided*, that no insulation shall be required at the lower end of a "guy" wire or "guy" cable where same is attached to a grounded anchor; *and further provided*, that where "guy" wires or "guy" cables are attached to a pole or structure of steel or other conducting material supporting wires or cables carrying in excess of fifteen thousand volts where pole or structure is thoroughly grounded no insulation shall be required at any point in said "guy" wire or "guy" cable; none of the provisions of this paragraph (*e*) shall be held to apply to "guy" wires or "guy" cables attached to poles carrying no wire or cable other than telephone, telegraph or other "signal" wire or cable, and which are situated outside the corporate limits of any town or city which shall have been incorporated as a municipality.

Vertical wires to be insulated.

(*f*) Run, place, erect or maintain vertically on any pole any wire or cable used to conduct or carry electricity, without causing such wire or cable to be at all times wholly incased in a casing equal in durability and insulating efficiency to a wooded casing not less than one and one-half inches thick. The provisions of this paragraph (*f*) shall not be held to apply to vertical telephone, telegraph or other "signal" wires or cables on poles where no other such wires or cables are maintained, and which are outside the corporate limits of any town or city which shall have been incorporated as a municipality; nor to wires or cables run vertically on iron poles or structures where both pole or structure and conduit are securely grounded.

Arc lamps may not be placed on poles with transformers.

(*g*) Place, erect or maintain on any pole, or any crossarm or other appliance on said pole, which carries or upon which is placed an electric arc lamp, any transformer for transforming electric currents; *provided, however*, that this section (*g*) shall not apply if any arc lamp that shall be suspended so that it can be trimmed from the ground or from a stand located on the pole not less than seven feet below the transformer; *and further provided*, that in so suspending an arc lamp (where transformer is located on same pole) no wire or cable in connection therewith shall be run vertically on the pole unless said wire or cable be protected as provided for in paragraph (*f*) of this section 1.

Wires carrying more than 15,000 volts.

(*h*) Run, place, erect or maintain any wire or cable carrying more than fifteen thousand volts of electricity across any wire or cable carrying less than said voltage or across any public highway, except on pole of such height and so placed at each crossing that under no circumstances can said wire or cable of said voltage higher than fifteen thousand volts in case of breakage thereof or otherwise, come in contact with any wire or cable of less than said voltage, or fall within a distance of ten (10) feet from the surface of any public highway; or in lieu thereof double strength construction may be installed, in which case the wires carrying a voltage higher than fifteen thousand volts shall, between the points of crossing, be of a cross-section area equal to at least twice that used in the line outside of such crossing, except where the conductor used is equal to number four (4) stranded Brown and Sharpe gauge or greater, in which case the wires or cables will be considered as complying with the law.

Safety bolts for suspension wires.

(*i*) Run, place, erect or maintain any suspension wire to which is attached any "aerial" cable of "75 pair number nineteen Brown and Sharpe gauge" or over, or of "100 pair number twenty-two Brown and Sharpe gauge" or over suspended from a crossarm (or from any other structure or appliance from which said suspension wire is hung), by a single bolt and clamp without at the same time attaching said suspension wire to said crossarms, structure or appliance by an additional "safety" bolt and clamp (or other "safety" appliance for thus attaching said suspension wire) of tensile strength equal to the first herein said bolt and clamp.

Preceding not applicable to direct current wires, etc.

SEC. 2. None of the provisions of the preceding section shall be held to apply to "direct current" electric wires or cables having the same polarity, nor to "signal" wires when no more than two (2) of such "signal" wires are attached to any one pole; *provided*, that none of such "direct current" or "signal" wires shall in any case be run, placed, erected or maintained within the distance of thirteen (13) inches from the center line of any pole (other than the pole or poles on which said wires or cables are carried) carrying electric wires or cables; *and provided, further*, that as between any two wires, or cables, or any wire or cable run, placed, erected or maintained in violation of the provisions of this section 2 only the wire or cable last in point of time run, placed, erected or maintained shall be held to be run, placed, erected or maintained thus in violation of said provisions.

Span wires.

SEC. 3. (As amended, Stats. 1915, chap. 600.) No commission, officer, agent or employee of the State of California, or of any city and county or city or county or other political subdivision thereof, and no other person, firm or corporation shall run, place, erect or maintain any "span" wire attached to any wire or cable used to conduct or carry electricity, without causing said "span" wire to be at all times effectively insulated between the outer point at which it is in any case fastened to the pole or other structure by which it is hung or supported, and at the point at which it is in any case thus attached; *provided*, that such insulation shall not in any case be placed less than two (2) feet or more than four (4) feet from said point at which said "span" wire is so attached, and that when in any case such "span" wire is attached along its length to any two (2) such wires or cables, conducting or carrying electricity and extending parallel to each other, not more than eighteen (18) feet apart, such insulation shall not be required therein at any point between such parallel wires or cables; none of the provisions of this section three (3) shall be held to apply where "feeder" wires are used in place of "span" wires.

Penalty for violation.

SEC. 4. Any violation of any provision of this act shall be deemed to be a misdemeanor, and shall be punishable upon conviction by a fine of not exceeding five hundred dollars ($500.00) or by imprisonment in a county jail not

exceeding six (6) months or by both such fine and imprisonment.

SEC. 5. All acts or parts of acts which are in conflict with the, or with any of the provisions of this, act are hereby repealed.

SEC. 6. This act shall take effect six months from the date of its passage in so far as it relates to new work, and a period of five years shall be allowed in which to reconstruct all existing work and construction to comply with the provisions of this act.

Sec. 7. (Added by chap. 600, Stats. 1915.) Any commission, officer, agent or employee of the State of California or any city and county, or city or county, or other political subdivision thereof, or any other person, firm or corporation may upon proper application to the railroad commission of the State of California be granted by said railroad commission an extension of time beyond that provided for in section 6 of this act; *provided*, it is shown to the satisfaction of said commission that the provisions of this act can not be complied with by said applicant within said time, or that the applicant for good and sufficient reasons has not been able to comply with the provisions of this act, and that such applicant has heretofore used due diligence so to do within the time specified in said section 6.

Sec. 8. (Added by chap. 600, Stats. 1915.) The railroad commission of the State of California is hereby vested with authority and power, at its discretion to grant such additional time and is hereby instructed to inspect all work which is included in the provisions of this act, and to make such further additions or changes as said commission may deem necessary for the purpose of safety to employees and the general public, and the said railroad commission is hereby charged with the duty of seeing that all the provisions of this act are properly enforced.

ACT No. 1025.

(Stats. 1911, chap. 500.)

Electricity—Regulating construction of manholes, etc.

SECTION 1. No commission, officer, agent, or employee of the State of California or of any city and county or city or county or other political subdivision thereof, and no other person, firm or corporation, shall build or rebuild or cause to be built or rebuilt within the State of California: Dimensions of electric wire subways.

(*a*) Any subway, manhole, chamber, or underground room used or to be used to contain, encase, cover or conduct any wire, cable, or appliance, to conduct, carry or handle electricity, unless such subway, manhole, chamber or underground room shall have an inside measurement of not less than four (4) feet at the maximum points between the side walls thereof, and between the end walls thereof, and not less than five (5) feet at all points between the floor thereof, and the top or ceiling thereof, or if circular in shape, at least four (4) feet diameter inside measurement, and not less than five (5) feet at all points between the floor and the ceiling thereof; *provided, however*, that this paragraph shall not be held to apply to any such subway, manhole, chamber or underground room, within which it is not intended or required that any human being perform work or labor or be employed; *further provided*, that the provisions of this paragraph (*a*) shall not be held to apply where satisfactory proof shall be submitted to the proper authorities, that it is impracticable or physically impossible to comply with this law within the space or location so designated by the proper municipal authorities.

(*b*) In any subway, manhole, chamber or underground room used or to be used to contain, encase, cover or conduct any wire, cable or appliance to conduct, carry or handle electricity, any opening to outer air which is less than twenty-six (26) inches if circular in shape, or less than twenty-four (24) inches by twenty-six (26) inches clear measurement if rectangular in shape. Openings to outer air.

Openings to be not less than three feet from street-car track.

(*c*) In any subway, manhole, chamber or underground room, used or to be used to contain, encase, cover or conduct any wire, cable or appliance to conduct, carry or handle electricity, any opening which is at the surface of the ground, within the distance of three (3) feet at any point from any rail or any railway or street-car track; *provided*, that the provisions of this paragraph (*c*) shall not be held to apply where satisfactory proof shall be submitted to the proper authorities that it is impracticable or physically impossible to comply with this law within the space or location so designated by the proper municipal authorities.

Floor of subway to be of concrete, etc.

(*d*) Any subway, manhole, chamber or underground room, used or to be used to contain, encase, cover or conduct any wire, cable, or appliance to conduct, carry, or handle electricity, unless the floor of such subway, manhole, chamber or underground room is made of stone, concrete, brick, or other similar material not subject to decomposition; *provided*, that this paragraph (*d*) shall not be held to apply to any such subway, manhole, chamber or underground room within which it is not intended or required that any human being perform work or labor or be employed.

Subways to be kept free from seepage, etc.

(*e*) Or maintain any subway, manhole, chamber or underground room, used, or to be used, to contain, encase, cover or conduct any wire, cable or appliance to conduct, carry or handle electricity, unless such subway, manhole, chamber or underground room is kept at all times in a sanitary condition, and free from stagnant water, or seepage, or other drainage, or any offensive matter dangerous to health, either by sewer connection or otherwise; *provided*, that this paragraph (*e*) shall not be held to apply to any such subway, manhole, chamber or underground room, within which it is not intended or required that any human being perform work or labor or be employed.

Penalty for violation.

SEC. 2. Any violation of any provision of this act shall be deemed a misdemeanor, and shall be punishable upon conviction by a fine not exceeding five hundred (500) dollars, or by imprisonment in a county jail not exceeding six (6) months, or by both such fine and imprisonment.

SEC. 3. None of the provisions of subdivisions *a*, *b*, *c*, and *d*, of section one of this act, shall be so construed as to be

retroactive or apply to works already constructed, and all acts or parts of acts which are in conflict with this act are hereby repealed.

SEC. 4. This act shall take effect and be in force from and after the date of passage.

ACT No. 1025a.

(Stats. 1913, chap. 275.)

Elevators in buildings under construction.

SECTION 1. The words and phrases used in this act shall for the purposes of this act, unless the same be contrary to or inconsistent with the context, be construed as follows: Definitions.

1. "Elevator" shall mean any means used to hoist persons or material of any kind on a building under course of construction, when operated by any power other than muscular power.

2. "Building" shall include structures of all kinds, regardless of the purposes for which they may be intended to be used, and whether such construction be below or above the level of the ground.

SEC. 2. Every hoist hereafter used in buildings during the course of construction shall have a system of signals for the purpose of signaling the person operating or controlling the machinery which may operate the hoist. And it shall be the duty of the person in charge of said building to appoint one or more persons to give such signals, such person to be selected from those most familiar with the work for which said hoist is being used. In the event that a building shall be over fifty feet in height, then two persons shall be appointed to give such signals, one at the bottom of said hoist and the other at the top of said hoist, and the person at the bottom of said hoist shall signal the person at the top, who shall then signal the engineer or the person in charge of the machinery operating said hoist. In the event that the engineer or person in charge of the machinery operating said hoist is so situated that he has a clear and unobstructed view of the base of the elevator, then and in that event, regardless of the height of the building, no person shall be required to give signals at the bottom of said hoist. Signals and persons to give them.

Inspection of hoists.

SEC. 3. It shall be the duty of the commissioner of the bureau of labor statistics to inspect all hoists coming within the definition in section one of this act. And if any part of the construction or system of signals used on a hoist is defective or may endanger the lives of men working in the immediate vicinity of said hoist, he shall direct the person in charge thereof to remedy such defect, and such hoist shall not be used again until the order of the commissioner shall have been complied with.

Penalty.

SEC. 4. Any person, firm, copartnership or corporation or any agent, superintendent or manager of a corporation who shall violate any of the provisions of this act, shall upon conviction thereof be guilty of a misdemeanor and punished by a fine not less than fifty dollars and not more than five hundred dollars, or by imprisonment in the county jail for not less than thirty days and not more than six months, or by both such fine and imprisonment.

ACT No. 1038.

(Stats. 1913, chap. 282.)

Private employment agencies—Regulation and licensing.

Definitions.

SECTION 1. 1. When used in this act the following terms are defined as herein specified: The term "person" means and includes any individual, company, society, association, corporation, manager, contractor, subcontractor or their agents or employees.

2. The term "employment agency" means and includes the business of conducting, as owner, agent, manager, contractor, subcontractor, or in any other capacity an intelligence office, domestic and commercial employment agency, theatrical employment agency, teachers' employment agency, general employment bureau, shipping agency, nurses' registry, or any other agency or office for the purpose of procuring or attempting to procure help or employment or engagements for persons seeking employment or engagements, or for the registration of persons seeking such help, employment or engagement, or for giving information as to where and of whom such help, employment or engagement may be procured, where a fee or other valuable consideration is exacted, or attempted to

be collected, directly or indirectly, for such services, whether such business is conducted in a building or on the street or elsewhere.

3. The term "theatrical employment agency" means and includes the business of conducting an agency, bureau, office or any other place for the purpose of procuring or offering, promising or attempting to provide engagements for circus, vaudeville, theatrical and other entertainments or exhibitions or performances, or of giving information as to where such engagements may be procured or provided, whether such business is conducted in a building, or on the street or elsewhere.

4. The term "theatrical engagement" means and includes any engagement or employment of a person as an actor, performer or entertainer in a circus, vaudeville, theatrical and other entertainment, exhibition or performance.

5. The term "emergency engagement" means and includes an engagement which has to be performed within twenty-four hours from the time when the contract for such engagement is made.

6. The term "fee" means and includes any money or other valuable consideration paid or promised to be paid for services rendered or to be rendered by any person conducting an employment agency of any kind under the provisions of this article. Such term includes any excess of money received by any such person over what has been paid out by him for the transportation, transfer of baggage, or board and lodging for any applicant for employment; such term also includes the difference between the amount of money received by any such person who furnishes employees, performers or entertainers for circus, vaudeville, theatrical and other entertainments, exhibitions or performances, and the amount paid by him to the said employees, performers or entertainers whom he hires or provides for such entertainments, exhibitions or performances.

7. The term "privilege" means and includes the furnishing of food, supplies, tools or shelter to contract laborers, commonly known as commissary privileges.

8. The term "commissioner of labor" means commissioner of the bureau of labor statistics.

License necessary.

SEC. 2. A person shall not open, keep, maintain or carry on any employment agency, as defined in the preceding sec-

tion, unless he shall have first procured a license therefor as provided in this article from the commissioner of labor. Such license shall be posted in a conspicuous place in said agency. Any person who shall open or conduct such an employment agency without first procuring said license shall be guilty of a misdemeanor and shall be punished as hereinafter provided.

Application.

SEC. 3. An application for such license shall be made to the commissioner of labor. Such application shall be written and in the form prescribed by the commissioner of labor, and shall state the name and address of the applicant; the street and number of the building or place where the business is to be conducted; whether the applicant proposes to conduct a lodging house for the unemployed separate from the agency which he proposes to conduct; the business or occupation engaged in by the applicant for at least two years immediately preceding the date of the application. Such application shall be accompanied by the affidavits of at least two reputable residents of the city to the effect that the applicant is a person of good moral character.

Investigation of application.

SEC. 4. (As amended, Stats. 1915, chap. 551.) Upon receipt of an application for a license the commissioner of labor may cause an investigation to be made as to the character and responsibility of the applicant and of the premises designated in such application as the place in which it is proposed to conduct such agency. The commissioner of labor may administer oaths, subpœna witnesses and take testimony in respect to matters contained in such application and in complaints of any character against the applicants for such license, and upon proper hearing may refuse to grant a license. Each application shall be granted or refused within thirty days from date of filing. No license shall be granted to a person to conduct the business of an employment agency in rooms used for living purposes, or where boarders or lodgers are kept, or where meals are served, or where persons sleep, or in connection with a building or premises where intoxicating liquors are sold to be consumed on the premises, excepting cafés and restaurants in office buildings. No license shall be granted to a person whose license has been revoked within three years from the date of application.

Revocation of license.

Each license shall run to the thirty-first day of March next following the date thereof and no longer, unless sooner revoked by the commissioner of labor. The commissioner of labor shall have the power and authority to revoke any license after a hearing, when it is shown that the licensee or his agent has violated or failed to comply with any of the provisions of this act, or when such licensee has ceased to be of good moral character, or when the conditions under which the license was issued have changed or no longer exist. At any hearing the commissioner of labor shall not be bound by the technical rules of evidence, and his rulings shall be presumed to be prima facie reasonable, and his findings of fact shall, in the absence of fraud, be conclusive and shall be set aside by the superior court only on the following grounds: Appeal.

1. That the commissioner of labor acted without or in excess of his powers.

2. That the determination was procured by fraud.

SEC. 5. Every license shall contain the name of the person licensed, a designation of the city, street and number of the house in which the person licensed is authorized to carry on the said employment agency, and the number and date of such license. Such license shall not be valid to protect any other than the person to whom it is issued or any place other than that designated in the license and shall not be transferred or assigned to any other person unless consent is obtained from the commissioner of labor, as hereinafter provided. If such licensed person shall conduct a lodging house for the unemployed separate and apart from such agency, it shall be so designated in the license. License to contain name, etc.

SEC. 6. A license granted as provided in this article shall not be assigned or transferred without the written consent of the commissioner of labor. No license fee shall be required upon such assignment or transfer. The location of an employment agency shall not be changed without the written consent of the commissioner of labor. Transfer.

SEC. 7. (As amended, Stats. 1915, chap. 551.) Every person licensed under the provisions of this act to carry on the business of an employment agency shall pay to the commissioner of labor a license fee of one hundred dollars in License fee.

cities of the first, first and one half and second classes, and a license fee of fifty dollars in cities of the third and fourth classes and a license fee of ten dollars in all other cities and towns. Such persons shall also deposit before such license is issued, with the commissioner of labor, a surety bond in the penal sum of two thousand dollars in cities of the first, first and one-half and second classes, or a surety bond in the penal sum of one thousand dollars in cities of the third and fourth classes, or a surety bond in the penal sum of five hundred dollars in all other cities and towns. Such surety bonds to be approved by the commissioner of labor and such bonds shall be payable to the people of the State of California, and shall be conditioned that the person applying for the license will comply with the provisions of this act and will pay all damages occasioned to any person by reason of misstatement, misrepresentation, fraud or deceit or any unlawful acts or omissions of any licensed person, his agents or employees, while acting within the scope of their employment, made, committed or omitted in the business conducted under such license or caused by any other violation of this article in carrying on the business for which such license is granted. All moneys collected for licenses as provided herein and all fines collected for violations of the provisions hereof shall be paid into the state treasury and credited to the contingent fund of the bureau of labor statistics.

Bond required.

Suits.

SEC. 8. All claims or suits brought in any court against any licensed person may be brought in the name of the person damaged upon the bond deposited with the people of the State of California by such licensed person as provided in section seven, and may be transferred and assigned as other claims for damages in civil suits. The amount of damages claimed by plaintiff, and not the penalty named in the bond, shall determine the jurisdiction of the court in which the action is brought. Where such licensed person has departed from the state with intent to defraud his creditors or to avoid the service of a summons in an action brought under this section, service shall be made upon the surety as prescribed in the Code of Civil Procedure. A copy of such summons shall be mailed to the last known postoffice address of the residence of the licensed person and the place where he con-

ducted such employment agency, as shown by the records of the commissioner of labor. Such service thereof shall be deemed to be made when not less than the number of days shall have intervened between the dates of service and the return of the same as provided by the Code of Civil Procedure for the particular court in which suit has been brought.

Register. SEC. 9. It shall be the duty of every licensed person to keep a register, approved by the commissioner of labor, in which shall be entered, in the English language, the date of the application for employment; the name and address of the applicant to whom employment is promised or offered, or to whom information or assistance is given in respect to such employment; the amount of fee received, and such other information as the commissioner of labor shall require. Such licensed person shall also enter in the same or in a separate register, approved by the commissioner of labor, in the English language, the name and address of every applicant accepted for help, the date of such application, kind of help requested, the names of the persons sent, with the designation of the one employed, the amount of the fee received and the rate of wages agreed upon, and such other information as the commissioner of labor may require. No such licensed person, his agent or employees, shall make any false entry in such registers.

Registers open for inspection. SEC. 10. All registers, books, records and other papers kept pursuant to this act in any employment agency shall be open at all reasonable hours to the inspection of the commissioner of labor and to any of his duly authorized agents or inspectors and every licensed person shall furnish to the commissioner upon request a true copy of such registers, books, records and papers or any portion thereof, and shall make such reports as the commissioner may prescribe.

Receipt. SEC. 11. It shall be the duty of every licensed person conducting an employment agency to give to every applicant for employment from whom a fee shall be received a receipt in which shall be stated the name and address of such employment agency, the name and address of the person to whom the applicant is sent for employment, the name of the applicant, the date, the amount of fee, the kind of work or service

to be performed, the general conditions of employment—including among other things the rate of wages or compensation, whether or not board and lodging is to be furnished, the hours of employment, the cost of transportation and whether or not it is to be paid by the employer, the time of such service, if definite and if indefinite to be so stated, and the name of the person authorizing the hiring of such applicant. There shall be printed on the face of the receipt in prominent type the following: "This agency is licensed by the commissioner of labor of the State of California." All receipts shall be made and numbered in original and duplicate. The original shall be given to the applicant paying the fee and the duplicate shall be kept on file at the employment agency. The receipts used by such licensed agencies shall be approved by the commissioner of labor.

Return of fees and expenses.

SEC. 12. (As amended, Stats. 1915, chap. 551.) No such licensed person shall accept a fee from any applicant for employment, or send out any applicant for employment without having obtained, either orally or in writing, a bona fide order therefor, and in no case shall such licensed person accept, directly or indirectly, a registration fee of any kind. In case the applicant paying a fee fails to obtain employment such licensed agency shall repay the amount of said fee to such applicant upon demand being made therefor; *provided*, that in cases where the applicant paying such fee is sent beyond the limits of the city in which the employment agency is located, such licensed agency shall repay in addition to the said fee any actual expenses incurred in going to and returning from any place where such applicant has been sent; *provided, however*, where the applicant is employed and the employment lasts less than seven days by reason of the discharge of the applicant, the employment agency shall return to said applicant the fee paid by such applicant to the employment agency, or such portion of said fee as in the judgment of the commissioner of labor may be adequate.

False advertising prohibited.

SEC. 13. No licensed person conducting an employment agency shall publish or cause to be published any false or fraudulent or misleading information, representation, notice or advertisement; all advertisements of such employment agency by means of cards, circulars, or signs and in news-

papers and other publications, and all letterheads, receipts, and blanks shall be printed and contain the licensed name and address of such employment agent and the word agency, and no licensed person shall give any false information, or make any false promise or false representation concerning an engagement or employment to any applicant who shall register or apply for an engagement or employment or help.

Prohibitions on part of agent.

SEC. 14. (As amended, Stats. 1915, chap. 551.) No licensed person conducting an employment agency shall send or cause to be sent, any woman or minor under the age of twenty-one years, as an employee to any house of ill fame or to any house or place of amusement for immoral purposes, or to places resorted to for the purpose of prostitution, or gambling houses, the character of which such licensed person could have ascertained upon reasonable inquiry. No licensed person shall send any minor under the age of eighteen years to any saloon or place where intoxicating liquors are sold to be consumed on the premises. No licensed person shall knowingly permit any person of bad character, prostitutes, gamblers, intoxicated persons or procurers to frequent such agencies. No licensed person shall accept any application for employment made by or on behalf of any child, or shall place or assist in placing any such child in any employment whatever in violation of the child labor law. No licensed person shall send an applicant to any place where a strike, lockout or other labor trouble exists without notifying the applicant of such conditions and shall in addition thereto enter a statement of such facts upon the receipt given to such applicant. No licensed person shall divide fees with an employer, or an agent of an employer, or with any superintendent, manager, foreman, or other employee of any person, firm or corporation to which help is furnished.

Theatrical employment agency.

SEC. 15. Every licensed person conducting a theatrical employment agency, before making a theatrical engagement, except an emergency engagement, for any person with any applicant for services in any such engagement shall prepare and file in such agency a written statement signed and verified by such licensed person setting forth how long the applicant has been engaged in the theatrical business. Such statement shall set forth whether or not such applicant has failed

to pay salaries or left stranded any companies, in which such applicant and, if a corporation, any of its officers or directors, have been financially interested during the five years preceding the date of application and, further, shall set forth the names of at least two persons as references. If such applicant is a corporation, such statement shall set forth the names of the officers and directors thereof and the length of time such corporation or any of its officers have been engaged in the theatrical business and the amount of its paid-up capital stock. If any allegation in such written, verified statement is made upon information and belief, the person verifying the statement shall set forth the sources of his information and the grounds of his belief. Such statement so on file shall be kept for the benefit of any person whose services are sought by any such applicant as employer.

Theatrical contracts.

SEC. 16. Every licensed person who shall procure for or offer to an applicant a theatrical engagement shall have executed in duplicate a contract containing the name and address of the applicant; the name and address of the employer of the applicant and of the person acting for such employer in employing such applicant; the time and duration of such engagement; the amount to be paid to such applicant; the character of entertainment to be given or services to be rendered; the number of performances per day or per week that are to be given by said applicant; if a vaudeville engagement, the name of the person by whom the transportation is to be paid, and if by the applicant, either the cost of the transportation between the places where said entertainment or services are to be given or rendered, or the average cost of transportation between the places where such services are to be given or rendered; and if a dramatic engagement the cost of transportation to the place where the services begin if paid by the applicant; and the gross commission or fees to be paid by said applicant and to whom. Such contracts shall contain no other conditions and provisions except such as are equitable between the parties thereto and do not constitute an unreasonable restriction of business. The form of such contract shall be first approved by the commissioner of labor and his determination shall be reviewable by certiorari. One of such duplicate contracts shall be

delivered to the person engaging the applicant and the other shall be retained by the applicant. The licensed person procuring such engagement for such applicant shall keep on file or enter in a book provided for that purpose a copy of such contract.

Act to be posted.

SEC. 17. Every licensed person shall post in a conspicuous place in each room of such agency a copy of this act. Such printed law to also contain the name and address of the officer charged with the enforcement of this act. The commissioner of labor shall furnish printed copies of this act to the employment agencies.

Penalty.

SEC. 18. Any person, firm, corporation or their agents or representatives violating or omitting to comply with any of the provisions of this act shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than fifty dollars or more than two hundred and fifty dollars or by imprisonment for a period of not more than sixty days or by both such fine and imprisonment.

SEC. 19. The commissioner of labor, his deputies and agents shall have the power and authority of sheriffs and other peace officers to make arrests for violations of the provisions of this act and to serve any process or notice throughout the state.

SEC. 20. All acts and parts of acts in conflict with the provisions of this act are hereby repealed.

ACT No. 1039.

(Stats. 1915, chap. 302.)

Free employment bureaus.

Free employment bureaus established.

SECTION 1. The commissioner of the bureau of labor statistics, hereinafter called "commissioner," shall establish free employment bureaus in the cities of San Francisco, Los Angeles, Oakland and Sacramento, and thereafter, whenever he deems it necessary, in other cities and towns.

Officers, etc.

SEC. 2. The commissioner shall procure, by lease or otherwise, suitable offices; incur the necessary expenses in the conduct thereof; appoint the necessary officers, assistants and clerks, and fix the compensation therefor; and promulgate rules and regulations for the conduct of free employment bureaus in order to carry out the purposes of this act.

Appropriation.

SEC. 3. There is hereby appropriated out of the moneys of the state treasury, not otherwise appropriated, the sum of fifty thousand dollars, to be used by the commissioner in carrying out the provisions of this act, and the controller is hereby directed from time to time to draw his warrants on the general fund in favor of the commissioner, for the amounts expended under his direction, and the treasurer is hereby authorized and directed to pay the same.

ACT No. 1098.

(Stats. 1889, page 3.)

Sanitation and ventilation of factories and workshops.

Sanitation.

SECTION 1. Every factory, workshop, mercantile or other establishment, in which five or more persons are employed, shall be kept in a cleanly state and free from the effluvia arising from any drain, privy, or other nuisance, and shall be provided, within reasonable access, with a sufficient number of water-closets or privies for the use of the persons employed therein. Whenever the persons employed as aforesaid are of different sexes, a sufficient number of separate and distinct water-closets or privies shall be provided for the use of each sex, which shall be plainly so designated, and no person shall be allowed to use any water-closet or privy assigned to persons of the other sex.

Ventilation.

SEC. 2. Every factory or workshop in which five or more persons are employed shall be so ventilated while work is carried on therein that the air shall not become so exhausted as to be injurious to the health of the persons employed therein, and shall also be so ventilated as to render harmless, as far as practicable, all the gases, vapors, dust, or other impurities generated in the course of the manufacturing process or handicraft carried on therein, that may be injurious to health.

Use of cellars.

SEC. 3. No basement, cellar, underground apartment, or other place which the commission of the bureau of labor statistics shall condemn as unhealthful and unsuitable, shall be used as a workshop, factory, or place of business in which any person or persons shall be employed.

Exhaust fans.

SEC. 4. (As amended, Stats. 1909, p. 43.) In any factory, workshop, or other establishment where a work or process

is carried on by which dust, filaments, or injurious gases are produced or generated, that are liable to be inhaled by persons employed therein, the person, firm, or corporation, by whose authority the said work or process is carried on, shall cause to be provided and used in said factory, workshop or other establishment, exhaust fans or blowers with pipes and hoods extending therefrom to each machine, contrivance or apparatus by which dust, filaments, or injurious gases are produced or generated. The said fans and blowers, and the said pipes and hoods, all to be properly fitted and adjusted and of power and dimensions sufficient to effectually prevent the dust, filaments, or injurious gases produced or generated by the above said machines, contrivances or apparatus, from escaping into the atmosphere of the room or rooms of said factory, workshop or other establishment where persons are employed.

Seats for female employees.

*SEC. 5. (As amended, Stats. 1903, p. 14.) Every person, firm, or corporation employing females in any manufacturing, mechanical, or mercantile establishment shall provide suitable seats for the use of the females so employed, and shall provide such seats to the number or at least one third the number of females so employed; and shall permit the use of such seats by them when they are not necessarily engaged in the active duties for which they are employed.

Penalty.

SEC. 6. (As amended, Stats. 1901, p. 572.) Any person or corporation violating any of the provisions of this act is guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than fifty dollars nor more than three hundred dollars, or by imprisonment in the county jail for not less than thirty days nor more than ninety days, or by both such fine and imprisonment, for each offense.

Enforcement.

SEC. 7. It shall be the duty of the commissioner of the bureau of labor statistics to enforce the provisions of this act.

SEC. 8. This act shall take effect and be in force from and after its passage.

*Superseded by Stats. 1913, chap. 352.

ACT No. 1458e.

(Stats. 1915, chap. 124.)

Convict labor on state highways.

Convicts for state highway work.

SECTION 1. The department of engineering of the State of California may employ, or cause to be employed, convicts confined in the state prisons in the construction, improvement and maintenance of the state highway system provided for in the "State Highways Act," approved March 22, 1909, and in the construction, improvement and maintenance of any other state roads in California.

Upon the requisition of the department of engineering the state board of prison directors shall send to the place and at the time designated the number of convicts requisitioned, or such portion thereof as are in the judgment of the warden available.

Department of engineering to supervise work.

SEC. 2. The department of engineering shall designate and supervise all road work done under the provisions of this act. It shall provide, supervise and maintain necessary camps and commissariat.

Prison directors shall discipline.

SEC. 3. The state board of prison directors shall have full jurisdiction at all times over the discipline and control of convicts employed on state roads.

Expenses.

SEC. 4. The expense of transportation of labor, necessary guarding, commissariat, camps, and all other expense incidental to such work shall be borne by the respective funds provided for such state road or highway work in the manner provided by law.

Convicts not to build bridges.

SEC. 4½. Said convicts when employed under the provisions of this act shall not be used for the purpose of building any bridge or structure of like character which requires the employment of skilled labor.

Good-time allowance for work.

SEC. 5. The state board of prison directors is hereby empowered and directed to adopt a special rule applicable solely to convicts employed as herein authorized and contemplated, whereby convicts so employed shall be granted additional good-time allowance conditioned upon their loyal, obedient and efficient co-operation with the state, but such additional good-time allowance shall not exceed one day for each two calendar days that the convict is absent from the prison.

SEC. 6. Any person who, without authority, interferes with or in any way interrupts the work of any convict employed pursuant to this act, and any person not authorized by law, who gives or attempts to give to any state prison convict so employed any opium, cocaine, or other narcotic, or any intoxicating liquors of any kind whatever, or firearms, weapons or explosives of any kind, is guilty of a felony, and upon conviction thereof shall be punished by imprisonment in the state prison for a term not less than one year nor more than five years, and shall be disqualified from holding any state office or position in the employ of this state. Any officer or guard of any state prison, or any superintendent of such road work, having in charge the convicts employed upon such highways, may arrest without a warrant any person violating any provision of this section. Interference with convicts felony. Penalty.

SEC. 7. All acts and parts of acts in conflict with the provisions of this act are hereby repealed. Repealed

ACT No. 1537.

(Stats. 1911, chap. 258.)

Eight hour law for women.

SECTION 1. (As amended, Stats. 1913, chap. 352; Stats. 1917, chap. 582.) No female shall be employed in any manufacturing, mechanical or mercantile establishment, laundry, hotel, public lodging house, apartment house, hospital, place of amusement, or restaurant, or telegraph or telephone establishment or office, or by any express or transportation company in this state more than eight hours during any one day or more than forty-eight hours in one week. The hours of work may be so arranged as to permit the employment of females at any time so that they shall not work more than eight hours during the twenty-four hours of one day, or forty-eight hours during any one week: *provided, however,* that the provisions of this section in relation to hours of employment shall not apply to or affect graduate nurses in hospitals, nor the harvesting, curing, canning or drying of any variety of perishable fruit, fish or vegetable during such periods as may be necessary to harvest, cure, can or dry said fruit, fish or vegetable in order to save the same from spoiling. Females not to work more than eight hours per day.

Seats. SEC. 2. Every employer in any manufacturing, mechanical or mercantile establishment, laundry, hotel, or restaurant, or other establishment employing any female, shall provide suitable seats for all female employees, and shall permit them to use such seats when they are not engaged in the active duties of their employment.

Enforcement. SEC. 3. The bureau of labor statistics shall enforce the provisions of this act. The commissioner, his deputies and agents, shall have all powers and authority of sheriffs or other peace officers, to make arrests for violations of the provisions of this act, and to serve all processes and notices thereunder throughout the state.

Penalty. SEC. 4. Any employer who shall permit or require any female to work in any of the places mentioned in section one more than the number of hours provided for in this act during any day of twenty-four hours, or who shall fail, neglect, or refuse to so arrange the work of females in his employ so that they shall not work more than the number of hours provided for in this act during any day of twenty-four hours, or who shall fail, neglect, or refuse to provide suitable seats as provided in section two of this act, or who shall permit or suffer any overseer, superintendent, foreman, or other agent of any such employer to violate any of the provisions of this act, shall be guilty of a misdemeanor, and upon conviction thereof shall be punished for a first offense, by a fine of not less than twenty-five dollars nor more than fifty dollars; for a second offense, by a fine of not less than one hundred dollars nor more than two hundred and fifty dollars; or by imprisonment for not more than sixty days, or by both such fine and imprisonment. All fines imposed and collected under the provisions of this act shall be paid into the state treasury and credited to the contingent fund of the bureau of labor statistics.

ACT No. 1608.

(State. 1913, chap. 324.)

Industrial welfare commission—Minimum wage law.

Commission established. SECTION 1. There is hereby established a commission to be known as the industrial welfare commission, hereinafter called the commission. Said commission shall be composed of five persons, at least one of whom shall be a woman, and

all of whom shall be appointed by the governor as follows: Two for the term of one year, one for the term of two years, one for the term of three years, and one for the term of four years; *provided, however*, that at the expiration of their respective terms, their successors shall be appointed to serve a full term of four years. Any vacancies shall be similarly filled for the unexpired portion of the term in which the vacancy shall occur. Three members of the commission shall constitute a quorum. A vacancy on the commission shall not impair the right of the remaining members to perform all the duties and exercise all the powers and authority of the commission.

Compensation.

SEC. 2. The members of said commission shall draw no salaries but all of said members shall be allowed ten dollars per diem while engaged in the performance of their official duties. The commission may employ a secretary, and such expert, clerical and other assistants as may be necessary to carry out the purposes of this act, and shall fix the compensation of such employees, and may, also, to carry out such purposes, incur reasonable and necessary office and other expenses, including the necessary traveling expenses of the members of the commission, of its secretary, of its experts, and of its clerks and other assistants and employees. All employees of the commission shall hold office at the pleasure of the commission.

Duties.

SEC. 3. (*a*) It shall be the duty of the commission to ascertain the wages paid, the hours and conditions of labor and employment in the various occupations, trades, and industries in which women and minors are employed in the State of California, and to make investigations into the comfort, health, safety and welfare of such women and minors.

(*b*) It shall be the duty of every person, firm or corporation employing labor in this state:

1. To furnish to the commission, at its request, any and all reports or information which the commission may require to carry out the purposes of this act, such reports and information to be verified by the oath of the person, or a member of the firm, or the president, secretary, or manager of the

corporation furnishing the same, if and when so requested by the commission or any member thereof.

2. To allow any member of the commission, or its secretary, or any of its duly authorized experts or employees, free access to the place of business or employment of such person, firm, or corporation, for the purpose of making any investigation authorized by this act, or to make inspection of, or excerpts from, all books, reports, contracts, pay rolls, documents, or papers, of such person, firm or corporation relating to the employment of labor and payment therefor by such person, firm or corporation.

3. To keep a register of the names, ages, and residence addresses of all women and minors employed.

(*c*) For the purposes of this act, a minor is defined to be a person of either sex under the age of eighteen years.

Public hearings.

SEC. 4. The commission may specify times to hold public hearings, at which times, employers, employees, or other interested persons, may appear and give testimony as to the matter under consideration. The commission or any member thereof shall have power to subpœna witnesses and to administer oaths. All witnesses subpœnaed by the commission shall be paid the fees and mileage fixed by law in civil cases. In case of failure on the part of any person to comply with any order of the commission or any member thereof, or any subpœna, or upon the refusal of any witness to testify to any matter regarding which he may lawfully be interrogated before any wage board or the commission, it shall be the duty of the superior court or the judge thereof, on the application of a member of the commission, to compel obedience in the same manner, by contempt proceedings or otherwise, that such obedience would be compelled in a proceeding pending before said court. The commission shall have power to make and enforce reasonable and proper rules of practice and procedure and shall not be bound by the technical rules of evidence.

Conference.

SEC. 5. If, after investigation, the commission is of the opinion that, in any occupation, trade, or industry, the wages paid to women and minors are inadequate to supply the cost of proper living, or the hours or conditions of labor are prejudicial to the health, morals or welfare of the workers, the

commission may call a conference, hereinafter called "wage board," composed of an equal number of representatives of employers and employees in the occupation, trade, or industry in question, and a representative of the commission to be designated by it, who shall act as the chairman of the wage board. The members of such wage board shall be allowed five dollars per diem and necessary traveling expenses while engaged in such conferences. The commission shall make rules and regulations governing the number and selection of the members and the mode of procedure of such wage board, and shall exercise exclusive jurisdiction over all questions arising as to the validity of the procedure and of the recommendations of such wage board. The proceedings and deliberations of such wage board shall be made a matter of record for the use of the commission, and shall be admissible as evidence in any proceedings before the commission. On request of the commission, it shall be the duty of such wage board to report to the commission its findings, including therein:

1. An estimate of the minimum wage adequate to supply to woman and minors engaged in the occupation, trade or industry in question, the necessary cost of proper living and to maintain the health and welfare of such women and minors.

2. The number of hours of work per day in the occupation, trade or industry in question, consistent with the health and welfare of such women and minors.

3. The standard conditions of labor in the occupation, trade or industry in question, demanded by the health and welfare of such women and minors.

Power to fix wages, etc.

SEC. 6. (*a*) The commission shall have further power after a public hearing had upon its own motion or upon petition, to fix:

1. A minimum wage to be paid to women and minors engaged in any occupation, trade or industry in this state, which shall not be less than a wage adequate to supply to such women and minors the necessary cost of proper living and to maintain the health and welfare of such women and minors.

2. The maximum hours of work consistent with the health and welfare of women and minors engaged in any occupation, trade or industry in this state; *provided*, that the hours

so fixed shall not be more than the maximum now or hereafter fixed by law.

3. The standard conditions of labor demanded by the health and welfare of the women and minors engaged in any occupation, trade or industry in this state.

(*b*) Upon the fixing of a time and place for the holding of a hearing for the purpose of considering and acting upon any matters referred to in subsection (*a*) hereof, the commission shall give public notice by advertisement in at least one newspaper published in each of the cities of Los Angeles and Sacramento and in the city and county of San Francisco, and by mailing a copy of said notice to the county recorder of each county in the state, of such hearing and purpose thereof, which notice shall state the time and place fixed for such hearing, which shall not be earlier than fourteen days from the date of publication and mailing of such notices.

(*c*) After such public hearing, the commission may, in its discretion, make a mandatory order to be effective in sixty days from the making of such order, specifying the minimum wage for women or minors in the occupation in question, the maximum hours; *provided*, that the hours specified shall not be more than the maximum for women or minors in California, and the standard conditions of labor for said women or minors; *provided, however*, that no such order shall become effective until after April 1, 1914. Such order shall be published in at least one newspaper in each of the cities of Los Angeles and Sacramento and in the city and county of San Francisco, and a copy thereof be mailed to the county recorder of each county in the state, and such copy shall be recorded without charge, and to the labor commissioner who shall send by mail, so far as practicable, to each employer in the occupation in question, a copy of the order, and each employer shall be required to post a copy of such order in the building in which women or minors affected by the order are employed. Failure to mail notice to the employer shall not relieve the employer from the duty to comply with such order. Finding by the commission that there has been such publication and mailing to county recorders shall be conclusive as to service.

Rescind or amend order.

SEC. 7. Whenever wages, or hours, or conditions of labor have been so made mandatory in any occupation, trade, or industry, the commission may at any time in its discretion, upon its own motion or upon petition of either employers or employees, after a public hearing held upon the notice prescribed for an original hearing, rescind, alter or amend any prior order. Any order rescinding a prior order shall have the same effect as herein provided for in an original order.

License to physically defective.

SEC. 8. (As amended, Stats. 1915, chap. 571.) (*a*) For any occupation in which a minimum wage has been established, the commission may issue to a woman physically defective by age or otherwise, a special license authorizing the employment of such licensee, for a period of six months, for a wage less than such legal minimum wage; and the commission shall fix a special minimum wage for such person. Any such license may be renewed for like periods of six months.

License to apprentices and learners.

(*b*) For any occupation in which a minimum wage has been established, the commission may issue to an apprentice or learner, a special license authorizing the employment of such apprentice or learner, for such time and under such conditions as the commission may determine at a wage less than such legal minimum wage; and the commission shall fix a special wage for such apprentice or learner.

(*c*) The commission may fix the maximum number of women, and minors under eighteen years of age, to be employed under the licenses provided for in subdivisions (*a*) and (*b*) of this section in any occupation, trade, industry or establishment in which a minimum wage has been established.

Statistics.

SEC. 9. Upon the request of the commission, the labor commissioner shall cause such statistics and other data and information to be gathered, and investigations made, as the commission may require. The cost thereof shall be paid out of the appropriations made for the expenses of the commission.

Misdemeanor.

SEC. 10. Any employer who discharges, or threatens to discharge, or in any other manner discriminates against any employee because such employee has testified or is about to testify, or because such employer believes that said employee may testify in any investigation or proceedings relative to the

enforcement of this act, shall be deemed guilty of a misdemeanor.

Payment of less than minimum wage prohibited.

SEC. 11. (As amended, Stats. 1915, chap. 571.) The minimum wage for women and minors fixed by said commission as in this act provided, shall be the minimum wage to be paid to such employees, and the payment to such employees of a less wage than the minimum so fixed shall be unlawful, and every employer or other person who, either individually or as an officer, agent, or employee of a corporation or other person, pays or causes to be paid to any such employee a wage less than such minimum, shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than fifty dollars, or by imprisonment for not less than thirty days, or by both such fine and imprisonment; and every employer or other person who, either individually or as an officer, agent or employee of a corporation, or other persons, violates or refuses or neglects to comply with the provisions of this act, or any orders or rulings of this commission, shall be guilty of a misdemeanor, and upon conviction thereof be punished by a fine of not less than fifty dollars, or by imprisonment for not less than thirty days, or by both such fine and imprisonment.

Violation of rulings.

Penalty.

Rulings presumed reasonable.

SEC. 12. (As amended, Stats. 1915, chap. 571.) In every prosecution for violation of any provision of this act, the minimum wage, the maximum hours of work and the standard conditions of labor fixed by the commission as herein provided, shall be prima facie presumed to be reasonable and lawful, and to be the living wage, the maximum hours of work and standard conditions of labor required herein. The findings of fact made by the commission acting within its powers shall, in the absence of fraud, be conclusive; and the determination made by the commission shall be subject to review only in a manner and upon the grounds following: within twenty days from the date of the determination, any party aggrieved thereby may commence in the superior court in and for the city and county of San Francisco, or in and for the counties of Los Angeles or Sacramento, an action against the commission for review of such determination. In such action a complaint, which shall state the grounds upon which a review is sought, shall be served with the

Appeal.

summons. Service upon the secretary of the commission, or any member of the commission, shall be deemed a complete service. The commission shall serve its answer within twenty days after the service of the complaint. With its answer, the commission shall make a return to the court of all documents and papers on file in the matter, and of all testimony and evidence which may have been taken before it, and of its findings and the determination. The action may thereupon be brought on for hearing before the court upon such record by either party on ten days' notice of the other. Upon such hearing, the court may confirm or set aside such determination; but the same shall be set aside only upon the following grounds:

Grounds for setting aside determination.

(1) That the commission acted without or in excess of its powers.

(2) That the determination was procured by fraud.

Upon the setting aside of any determination the court may recommit the controversy and remand the record in the case to the commission for further proceedings. The commission, or any party aggrieved, by a decree entered upon the review of a determination, may appeal therefrom within the time and in the manner provided for an appeal from the orders of the said superior court.

Civil action.

SEC. 13. Any employee receiving less than the legal minimum wage applicable to such employee shall be entitled to recover in a civil action the unpaid balance of the full amount of such minimum wage, together with costs of suit, notwithstanding any agreement to work for such lesser wage.

Complaints.

SEC. 14. Any person may register with the commission a complaint that the wages paid to an employee for whom a living rate has been established, are less than that rate, and the commission shall investigate the matter and take all proceedings necessary to enforce the payment of a wage not less than the living wage.

Biennial report.

SEC. 15. The commission shall biennially make a report to the governor and the state legislature of its investigations and proceedings.

Appropriation.

SEC. 16. There is hereby appropriated annually out of the moneys of the state treasury, not otherwise appropriated, the sum of fifteen thousand dollars, to be used by the commission

in carrying out the provisions of this act, and the controller is hereby directed from time to time to draw his warrants on the general fund in favor of the commission for the amounts expended under its direction, and the treasurer is hereby authorized and directed to pay the same.

Arbitration.

SEC. 17. The commission shall not act as a board of arbitration during a strike or lockout.

Interpretation.

SEC. 18. (*a*) Whenever this act, or any part or section thereof, is interpreted by a court, it shall be liberally construed by such court.

(*b*) If any section, subsection, or subdivision of this act is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this act. The legislature hereby declares that it would have passed this act, and each section, subsection, subdivision, sentence, clause and phrase thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses or phrases is declared unconstitutional.

Application.

SEC. 19. The provisions of this act shall apply to and include women and minors employed in any occupation, trade or industry, and whose compensation for labor is measured by time, piece or otherwise.

ACT No. 1611.

(Stats. 1905, page 11; Stats. 1911, chap. 456; Stats. 1913, chap. 214.)

Child labor law. (Entire statute re-enacted Stats. 1915, chapter 625.)

Employment of minors under 15 years.

SECTION 1. No minor under the age of fifteen years shall be employed, permitted or suffered to work in or in connection with any mercantile establishment, manufacturing establishment, mechanical establishment, workshop, office, laundry, place of amusement, restaurant, hotel, apartment house, or in the distribution or transmission of merchandise or messages, or in any other place of labor at any time; *provided, however*, that on the regular weekly school holidays and during the regular vacation of public schools of the city, county, or city and county, in which the place of employment is situated, a minor under the age of fifteen years, but over the age of twelve years, may be employed if provided with a vacation

Exceptions during vacations.

permit as hereinafter provided; *and provided, further*, that any minor fourteen years of age shall, upon application to the school authorities as in the case of an age and schooling certificate, and upon compliance with all the requirements for the issuance of an age and schooling certificate, be entitled to receive from the officers authorized to issue age and schooling certificates a permit to work outside of school hours. Outside of school hours.

SEC. 2. The superintendent of schools of any city, or of any city and county, or of any county (over such portions of any such county as are not within the jurisdiction of any superintendent of city schools) shall have authority to issue a permit to work to any minor of the age of fourteen years, in any of the following circumstances: Employment of minors 14 years of age under permits.

(1) Where such minor has completed the prescribed grammar school course, and is physically fitted for the labor contemplated; or Requirements for permits.

(2) Where upon the sworn statement being made by the parent, or foster-parent, or guardian, of such minor, that such minor is past the age of fourteen years, that the parent or parents, or foster-parent or foster-parents, or guardian, of such minor is incapacitated for labor through illness or injury, or that through the death or desertion of the father of such minor, the family is in need of the earnings of such minor, and that sufficient aid can not be secured in any other manner. The person authorized to issue such permit shall make a signed statement in granting such permit that he, or a competent person designated by him for this purpose has carefully investigated the conditions under which the application for such permit has been asked, and has found that in his judgment the earnings of such minor are necessary for such family to support such minor, and that in his judgment sufficient aid can not be secured in any other manner.

SEC. 3. No permit as specified in section two of this act shall be issued except upon written evidence that suitable work is waiting for such minor, and such permit shall specify the kind of labor. Permits issued under subdivision two of said section two shall in no case be issued for a longer period than shall seem necessary, nor for longer than six months, at the end of which period such superintendent shall see that such minor returns to school, unless a new permit to labor is Permits, how issued. Limitations.

Permits to be kept on file by employers.

Form of permit.

Permit may be revoked.

Duplicate copy to be filed.

Semi-annual reports by superintendents.

Employment of minors under 16 years prohibited in certain occupations.

issued. Such permit shall be kept on file by the person, firm or corporation employing the minor therein designated, during the term of said employment, and shall be given up to such minor upon his quitting such employment. Where such minor works for himself and not for others, such minor shall keep in his possession such permit. Such permit shall be issued on forms in accordance with this act, which shall be prepared and provided by the commissioner of the bureau of labor statistics of the State of California. Such permit shall be subject to revocation at any time by such commissioner of the bureau of labor statistics, or by the authority issuing such permit, whenever such commissioner, or the authority issuing such permit shall find that the conditions for the legal issuance of such permit do not exist. Such permit shall be always open to the inspection of the attendance and probation officers, or of the officers of the state bureau of labor statistics. A duplicate copy of each permit to work granted under the provisions of this act shall be kept by the person issuing such permit, such copy to be filed with the superintendent of schools of the city, or city and county, or county, as the case may be; *provided*, that all copies of permits issued between June 25th and December 25th of any year shall be filed not later than December 31st of such year; and those issued between December 25th and June 25th of the ensuing year shall be filed not later than June 30th of each year. Corresponding semi-annual reports of all such permits issued shall be made by such superintendents in such form as may be required by the commissioner of the bureau of labor statistics of the State of California.

SEC. 4. No child under the age of sixteen years shall be employed, permitted or suffered to work at any of the following occupations or in any of the following positions: adjusting any belt to any machinery, or sewing or lacing machine belts in any workshop or factory, or oiling, wiping or cleaning machinery or assisting therein, or operating or assisting in operating any of the following machines: (*a*) Circular or band saws; (*b*) wood shapers; (*c*) wood jointers; (*d*) planers; (*e*) sandpaper or wood-polishing machinery; (*f*) wood-turning or boring machinery; (*g*) picker machines or machines used in picking wool, cotton, hair or any other

material; (*h*) carding machines; (*i*) paper-lace machines; (*j*) leather-burnishing machines; (*k*) job or cylinder printing presses operated by power other than foot power; (*l*) boring or drill presses; (*m*) stamping machines used in sheet-metal and tinware or in paper and leather manufacturing, or in washer and nut factories; (*n*) metal or paper cutting machines; (*o*) corner staying machines in paper box factories; (*p*) corrugating rolls, such as are used in corrugated paper, roofing or washboard factories; (*q*) steam boiler; (*r*) dough brakes or cracker machinery of any description; (*s*) wire or iron straightening or drawing machinery; (*t*) rolling mill machinery; (*u*) power punches or shears; (*v*) washing, grinding or mixing machinery; (*w*) calender rolls in paper and rubber manufacturing; (*x*) laundering machinery; or in proximity to any hazardous or unguarded belts, machinery or gearing; or upon any railroad, whether steam, electric or hydraulic; or upon any vessel or boat engaged in navigation or commerce within the jurisdiction of this state; *provided, however*, that the provisions of this section shall not apply to the courses of training in vocational or manual training schools or in state institutions.

Employment of minors under 16 years prohibited in certain industries.

SEC. 5. No child under the age of sixteen years shall be employed, permitted or suffered to work in any capacity (1) in, about or in connection with any processes in which dangerous or poisonous acids are used; (2) nor in the manufacture or packing of paints, colors, white or red lead; (3) nor in soldering; (4) nor in occupations causing dust in injurious quantities; (5) nor in the manufacture or use of dangerous or poisonous dyes; (6) nor in the manufacture or preparation of compositions with dangerous or poisonous gases; (7) nor in the manufacture or use of compositions of lye in which the quantity thereof is injurious to health; (8) nor on scaffolding; (9) nor in heavy work in the building trades; (10) nor in any tunnel or excavation; (11) nor in, about or in connection with any mine, coal breaker, coke oven, or quarry; (12) nor in assorting, manufacturing or packing tobacco; (13) nor in operating any automobile, motor car or truck; (14) nor in a bowling alley; (15) nor in a pool or billiard room; (16) nor in any other occupation

dangerous to the life or limb, or injurious to the health or morals of such child.

Additional prohibitions after hearing by bureau of labor.

SEC. 6. The bureau of labor statistics may, from time to time, after a hearing duly had, determine whether or not any particular trade, process of manufacture or occupation, in which the employment of children under the age of sixteen years is not already forbidden by law, or any particular method of carrying on such trade, process of manufacture or occupation, is sufficiently dangerous to the lives or limbs or injurious to the health or morals of children under sixteen years of age to justify their exclusion therefrom. No child under sixteen years of age shall be employed, permitted or suffered to work in any occupation thus determined to be dangerous or injurious to such children. There shall be a right of appeal to the superior court from any such determination.

Appeal.

Hours of labor, minors under 18 years.

SEC. 7. No minor under the age of eighteen years shall be employed in laboring in any manufacturing, mechanical, or mercantile establishment or other place of labor, more than eight hours in one day or more than forty-eight hours in one week, except when it is necessary to make repairs to prevent the interruption of the ordinary running of the machinery, or when a different apportionment of the hours of labor is made for the sole purpose of making a shorter day's work for one day of the week, nor before the hour of five o'clock in the morning, nor after the hour of ten o'clock in the evening.

Employment of minors under 18 years in messenger service, etc.

SEC. 8. No person under the age of eighteen years shall be employed, permitted or suffered to work as a messenger for any telegraph, telephone or messenger company in the distribution, transmission or delivery of goods or messages before six o'clock in the morning, or after nine o'clock in the evening of any day.

Vacation permits, issuance of.

SEC. 9. Vacation permits shall be signed by the principal, vice-principal of the school, or secretary of the board of school trustees or board of education of the school which such minor is attending, or has attended during the term next preceding any such vacation. Such permit shall contain the name and age of the minor to whom it is issued, and when issued for the regular vacation, the date of the termination of the vacation for which it is issued, and in any case shall be kept on file

Form of permit.

by the employer during the period of employment, and at the termination of such employment shall be returned to the minor to whom it was issued.

Employment of minors 15 years of age during school hours.

SEC. 10. No minor of the age of fifteen years shall be employed, permitted or suffered to work in or in connection with any of the places enumerated in section one during the hours the public schools are in session, unless such minor is provided with an age and schooling certificate as herein provided.

Age and schooling certificate.

An age and schooling certificate shall be approved only by the superintendent of schools of the city or city and county, or by a person authorized by him in writing, or where there is no city or city and county superintendent of schools, by a person authorized by the local school trustees; *provided*, that the superintendent or principal of any school of recognized standing shall have the right to approve an age and schooling certificate, and shall have the same rights and powers as the superintendent of public schools to issue the certificate herein provided for the children attending such schools. The person authorized to issue age and schooling certificates shall have the authority to administer the oaths necessary for carrying out the provisions of this act, but no fees shall be charged for issuing such certificates. The person authorized to issue age and schooling certificates shall not issue such certificates until the minor in question, accompanied by its parent or guardian, has personally made application to him therefor, and until he has received, examined, approved and filed the following papers duly executed: (1) The school record of such minor, giving age, grade and attendance for current term, duly signed by the principal or teacher. (2) A duly attested transcript of the birth certificate filed according to law with any officer charged with the duty of recording births; or a passport, or a duly attested transcript of a certificate of baptism showing the date of birth and place of baptism of such minor; or, in case the officer authorized to issue the certificate is satisfied that none of such proofs of age can be produced, other evidence of age can be produced, such as school enrollment record, or affidavit of the parent, guardian or custodian of such minor, such as shall convince such officer that the minor is fifteen years of

Issuance of certificate.

Requirements for issuance of certificate.

age or upwards. (3) The written statement of the person, firm or corporation in whose service the minor is about to enter, that he intends to employ the minor, which statement shall give the nature of the occupation for which the child is to be employed. (4) A certificate signed by a physician appointed by the school board, or other public medical officer, stating that such minor has been examined by him and, in his opinion, has reached the normal development of a minor of its age and is in sufficiently sound health and physically able to be employed in the work which it intends to do; *provided, however*, that no fee shall be charged the minor for such physician's certificate.

Age and schooling certificates shall be issued on forms which shall be prepared and provided by the commissioner of the bureau of labor statistics of the State of California, and shall be substantially in the following form, to wit:

Form of certificate.

Age and schooling certificate. This certifies that I am the (father, mother or guardian) of (name of the minor) and that (he or she) was born at (name of the city or town), in the county of (name of county, if known), and state (or country) of (name) on the day (day and year of birth), and is now (number of years and of months) old.

Signature, as provided in this act.

City or town, and date.

There personally appeared before me the above named (name of person signing) and made oath that the foregoing certificate by (him or her) signed is true to the best of (his or her) knowledge and belief.

I hereby approve the foregoing certificate of (name of minor), height (feet and inches), complexion (fair or dark), hair (color), having no sufficient reason to doubt that (he or she) is of the age therein certified, and I hereby certify that (he or she) has completed the prescribed grammar school course or that (he or she) has completed the equivalent of the seventh grade of the regular grammar school course and is a regular attendant for the then current term at a regularly conducted night school.

Signature of the person authorized to sign, with his official character and authority.

Town or city and date.

This certificate belongs to the minor in whose behalf it is drawn and it shall be presented to (him or her) whenever (he or she) leaves the service of the person, firm or corporation holding the same.

The certificate as to the birthplace and age of the minor under sixteen years of age shall be signed by his father, his mother, or his guardian; if a minor has no father, mother, or guardian living in the same city or town, his own signature to the certificate may be accepted by the person authorized to approve the same. Every person authorized to sign the certificate prescribed by this act, who knowingly certifies to any false statement therein, is guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than five nor more than fifty dollars, or by imprisonment in the county jail for not more than thirty days, or by both such fine and imprisonment. Penalty for false issuance.

A duplicate copy of each age and schooling certificate granted under the provisions of this act shall be kept by the person issuing such certificate, such copy to be filed with the county superintendent of schools in the county where the certificate is issued; *provided*, that all such copies of certificates issued between June 25th and December 25th of any year shall be filed not later than December 31st of such year; and those issued between December 25th and June 25th of the ensuing year shall be filed not later than June 30th of each year. The county superintendent of schools of each county shall file with the commissioner of the bureau of labor statistics, a report showing the number of age and schooling certificates issued to male and female minors and such other detailed information as the commissioner may require. Said report to be filed during the months of January and July of each year for the preceding six months, ending June 25th and December 25th of each year, and cover certificates issued during said periods and on file in the office of the county superintendent of schools as described in this section. Duplicate copy to be filed. Semi-annual reports by superintendents.

Minors under 16 years not to remain unemployed more than two weeks.

SEC. 11. No minor having an age and schooling certificate, as hereinbefore described, and no other minor under sixteen years of age, who would by law be required to attend school, shall, while the public schools are in session, be and remain idle and unemployed for a period longer than two weeks, but must enroll and attend school; *provided*, that within one week after any minor having such age and schooling certificate shall have ceased to be employed by any employer, such employer shall, in writing, giving the latest correct address of such minor known to such employer, notify the issuing officer that such minor is no longer employed by such employer; and such issuing officer shall thereupon immediately notify the attendance officer having jurisdiction in the place of such minor's residence, giving the said latest known correct address of such minor, that such minor is neither at work nor in school; *and provided, further*, that no such minor shall be permitted to cease school attendance, without securing an age and schooling certificate as provided in this act.

Employer to report within one week after minor leaves employ.

Registers of all minors under 18 years to be kept by employers.

Hours of labor to be posted.

Permits and certificates to be kept on file.

SEC. 12. Every person, firm, corporation or agent, or officer of a firm or corporation, employing minors under the age of eighteen years shall keep a register containing the names and addresses of such minor employees and shall post and keep posted in a conspicuous place, in every room where such minors are employed, a written or printed notice stating the hours per day for each day of the week required of such minors, and shall keep on file all permits and certificates required by this act for minors under the age of sixteen years. Such records and files shall be open at all times to the inspection of the school attendance and probation officers and the officers of the state bureau of labor statistics.

Permits and certificates to be returned to minor leaving employ.

All certificates and permits shall be given up to such minor upon his quitting such employment. Where such minor works for himself and not for others, such minor shall keep in his possession such certificate. Such certificate shall be subject to revocation at any time by such commissioner of the bureau of labor statistics, or by the authority issuing such certificate, whenever such commissioner or the authority issuing such certificate shall find that conditions for the legal issuance of such certificate do not exist.

SEC. 13. Any person, firm, corporation, agent or officer of a firm or corporation that violates or omits to comply with any of the foregoing provisions of this act, or that employs or suffers or permits any minor to be employed in violation thereof, is guilty of a misdemeanor, and, shall, upon conviction thereof, be punished by a fine of not less than fifty dollars or more than two hundred dollars, or by imprisonment in the county jail for not more than sixty days, or by both such fine and imprisonment, for each and every offense. A failure to produce any age and schooling certificate or vacation permit to work or to post any notice required by this act shall be prima facie evidence of the illegal employment of any minor whose age and schooling certificate or permit to work is not produced, or whose name is not so posted. Any fine collected under the provisions of this act shall be paid into the school funds of the county, or city, or city and county, in which the offense occurred; except such fines imposed and collected as the result of prosecutions by the officers of the bureau of labor statistics, in which cases one-half of the resultant fine or fines shall be paid into the state treasury and credited to the contingent fund of the bureau of labor statistics, and one-half paid into the school funds of the county, or city, or city and county, in which the offense occurred.

Liability of employer.

Penalty.

Disposition of fines.

SEC. 14. (As amended, Stats. 1917, chap. 580.) Nothing in this act shall be construed to prohibit the employment of minors sixteen years of age or over at agricultural, horticultural, or viticultural, or domestic labor. Nor shall anything in this act be construed to prohibit the employment of minors at agricultural, horticultural, or viticultural, or domestic labor, during the time the public schools are not in session, or during other than school hours. For the purpose of this act, horticultural shall be understood to include the curing and drying, but not the canning of all varieties of fruit. Nor shall anything in this act be construed to prohibit any minor between the ages of fifteen and eighteen years, who is by any statute or statutes of the State of California, now or hereafter in force, permitted to be employed as an actor, or actress, or performer in a theatre, or other place of amusement, previous to the hour of ten o'clock p.m., in the

Agricultural, etc., labor.

Theatrical employment.

presentation of a performance, play or drama, continuing from an earlier hour till after the hour of ten o'clock p.m. from performing his or her part in such presentation as such employee between the hours of ten and twelve o'clock p.m.; *provided*, the written consent of the commissioner of the bureau of labor statistics is first obtained. Nor shall anything in this act prevent, or be construed to prohibit, the employment of any minor, whether resident or nonresident, in the presentation of a drama, play, performance, concert or entertainment, with the written consent of the commissioner of the bureau of labor statistics, but no such consent shall be given unless the officer giving it is satisfied that the environment in which the drama, play, performance, concert or entertainment is to be produced is a proper environment for the minor, and that the conditions of such employment are not detrimental to the health of such minor, and that the minor's education will not be neglected or hampered by its participation in such drama, play, performance, concert or entertainment, and the commissioner may require the person charged with the issuance of age and schooling certificates to make the necessary investigation into such conditions; and every such written consent shall specify the name and age of the minor together with such other facts as may be necessary for the proper identification of such minor, and the dates when, and the theatres or other places of amusement in which such drama, play, performance, concert or entertainment is to be produced, and shall specify the drama, play, performance, concert or entertainment in which the minor is permitted to participate, and every such consent shall be revocable at the will of the officer giving it. Dramas and plays shall include the production of motion picture plays.

Consent of labor commissioner.

Sweat shops.

SEC. 15. Work shall be deemed to be done for a manufacturing establishment within the meaning of this act, whenever it is done at any place upon the work of a manufacturing establishment or upon any of the materials entering into the product of the manufacturing establishment, whether under contract or arrangement with any person in charge of or connected with such manufacturing establishment directly

or indirectly, through the instrumentality of one or more contractors or other third persons.

Street trades.

SEC. 16. No boy under ten years of age, nor girl under eighteen years of age, shall be employed, permitted or suffered to work at any time in or in connection with the street occupation of peddling, boot blacking, the sale or distribution of newspapers, magazines, periodicals or circulars nor in any other occupation pursued in any street or public place; *provided, however*, that nothing in this section shall be construed to apply to cities whose population is less than twenty-three thousand according to the last federal census.

Penalty.

Any person, firm, corporation, or agent, or officer of a firm or corporation, or any parent or guardian violating the provisions of this act shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not more than fifty dollars, or by imprisonment in the county jail for not more than sixty days, or by both such fine and imprisonment.

Enforcement of law.

SEC. 17. The bureau of labor statistics shall enforce the provisions of this act. The commissioner, his deputies and agents, shall have all the powers and authority of sheriffs or other peace officers, to make arrests for violation of the provisions of this act, and to serve any process or notice throughout the state.

The attendance officer of any county, city and county, or school district in which any place of employment, in this act named, is situated, or the probation officer of such county, shall have the right and authority, at all times, to enter into any such place of employment for the purpose of investigating violations of the provisions of this act, or violations of the provisions of an act entitled "An act to enforce the educational rights of children and providing penalties for the violation of the act," approved March 24, 1903, and any act amending or superseding the same; *provided, however*, that if such attendance or probation officer is denied entrance to such place of employment, any magistrate may, upon the filing of an affidavit by such attendance or probation officer setting forth the fact that he has a good cause to believe that the provisions of this act, or the act hereinbefore referred to, are being violated in such place of employment, issue an order

directing such attendance or probation officer to enter said place of employment for the purpose of making such investigations.

SEC. 18. All acts and parts of acts inconsistent herewith are hereby expressly repealed.

Constitutionality.

SEC. 19. If any section, subsection, sentence, clause or phrase of this act is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this act. The legislature hereby declares that it would have passed this act, and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more other sections, subsections, sentences, clauses or phrases be declared unconstitutional.

The above statute was declared constitutional in a unanimous opinion of the State Supreme Court in the case of *Ex parte Spencer*, decided July 9, 1906, 86 Pac. Rep. 896.

ACT No. 1623.

(Stats. 1911, chap. 688.)

Minors—Vending at night prohibited.

Unlawful for minor under eighteen to conduct business between 10 p.m. and 5 a.m.

SECTION 1. It shall be unlawful for any minor under the age of eighteen years to vend and sell goods, engage in, or conduct any business between the hours of ten o'clock in the evening and five o'clock in the morning.

SEC. 2. Any person violating any of the provisions of this act shall be guilty of a misdemeanor and shall, upon conviction thereof, be punished by a fine of not more than twenty dollars, or by imprisonment for not more than ten days, or by both such fine and imprisonment for each offense.

ACT No. 1695.

(Stats. 1909, chap. 413.)

Sale of intoxicants near construction camps.

Disposal of intoxicating liquors.

SECTION 1. It shall be unlawful for any person to sell, keep for sale, or give away, any spirituous, vinous, malt or mixed intoxicating liquors at any place situated more than one mile outside the limits of an incorporated city or town, and within four miles of any camp or assembly of men, numbering twenty-five or more, engaged upon, or in connection

with, the construction, repair or operation of any public or quasi public work, improvement or utility; *provided, however*, that nothing in this section contained shall be deemed to apply to the sale, keeping for sale, or disposal of any such liquor at a licensed saloon or liquor store which shall have been established, or at a licensed saloon or liquor store which shall be maintained, at the time this act takes effect, upon the same premises where a licensed saloon or liquor store shall have been established, at least six months prior to the establishment of such camp or assembly of men, or to the sale, keeping for sale, or disposal of any such liquors at any winery, licensed brewery or distillery, where the same is manufactured.

Penalty.

SEC. 2. Any person violating any of the provisions of this statute shall be guilty of a misdemeanor, and, for each offense, shall be punished by a fine not exceeding five hundred dollars, or by imprisonment in the county jail not exceeding six months, or by both such fine and imprisonment.

ACT No. 1733.

(Stats. 1909, page 227.)

Japanese—Statistics concerning.

SECTION 1. Upon this act becoming effective the governor shall direct the state labor commissioner to immediately undertake and complete as soon as possible the gathering and compiling of statistics and such other information regarding the Japanese of this state as may be useful to the governor in making a proper report to the president of the United States and to congress, and in furnishing to the people of this state and elsewhere a comprehensive statement of such conditions as actually exist. Upon the order of the governor such statistics and information shall be printed and distributed.

SEC. 2. The sum of ten thousand dollars, or so much thereof as may be necessary, is hereby appropriated out of any money in the state treasury not otherwise appropriated to carry out the provisions of this act. And the controller is hereby authorized to draw his warrants for the sum herein made available, and the state treasurer is hereby directed to pay the same.

SEC. 3. This act shall take effect immediately.

ACT No. 1734.

(Stats. 1909, page 719.)

Japanese—Records to be kept.

Duties of state and county officers.

SECTION 1. It is hereby declared to be the duty of all officers of this state and all officers of each respective county, city, or city and county, in addition to their other duties, to keep such records as shall be required under the provisions of an act entitled "An act to provide for the gathering, compiling, printing and distribution of statistics and information regarding the Japanese of the state, and making an appropriation therefor," and to furnish to the commissioner of the bureau of labor statistics, upon request, whatever data it may be necessary for the commissioner to acquire in complying with the provisions of said act.

SEC. 2. This act shall take effect immediately.

ACT No. 1828.

(Stats. 1883, page 27.)

Bureau of labor statistics.

Commissioner.

SECTION 1. (As amended, Stats. 1911, chap. 21.) As soon as possible after the passage of this act, the governor of the state shall appoint a suitable person to act as commissioner of a bureau of labor statistics. The headquarters of said bureau shall be located in the city and county of San Francisco. Said commissioner shall hold office and serve solely at the pleasure of the governor, and not otherwise.

Term of office.

Official bond.

SEC. 2. The commissioner of the bureau, before entering upon the duties of his office, must execute an official bond in the sum of five thousand (5,000) dollars, and take the oath of office, all as prescribed by the Political Code for state officers in general.

Duties.

SEC. 3. The duties of the commissioner shall be to collect, assort, systematize, and present, in biennial reports to the legislature, statistical details, relating to all departments of labor in the state, such as the hours and wages of labor, cost of living, amount of labor required, estimated number of persons depending on daily labor for their support, the probable chances of all being employed, the operation of labor-saving machinery in its relation to hand labor, etc. Said statistics may be classified as follows:

Classes of statistics.

First—In agriculture.

Second—In mechanical and manufacturing industries.

Third—In mining.

Fourth—In transportation on land and water.

Fifth—In clerical and all other skilled and unskilled labor not above enumerated.

Sixth—The amount of cash capital invested in lands, buildings, machinery, material, and means of production and distribution generally.

Seventh—The number, age, sex, and condition of persons employed; the nature of their employment; the extent to which the apprenticeship system prevails in the various skilled industries; the number of hours of labor per day; the average length of time employed per annum, and the net wages received in each of the industries and employments enumerated.

Eighth—The number and condition of the unemployed, their age, sex, and nationality, together with the cause of their idleness.

Ninth—The sanitary condition of lands, workshops, dwellings; the number and size of rooms occupied by the poor, etc.; the cost of rent, fuel, food, clothing, and water in each locality of the state; also the extent to which labor-saving processes are employed to the displacement of hand labor.

Classes of statistics.

Tenth—The number and condition of the Chinese in the state; their social and sanitary habits; number of married and of single; the number employed, and the nature of their employment; the average wages per day at each employment, and the gross amount yearly; the amounts expended by them in rent, food, and clothing, and in what proportion such amounts are expended for foreign and home productions, respectively; to what extent their employment comes in competition with the white industrial classes of the state.

Eleventh—The number, condition and nature of the employment of the inmates of the state prisons, county jails, and reformatory institutions, and to what extent their employment comes in competition with the labor of mechanics, artisans and laborers outside of these institutions.

Twelfth—All such other information in relation to labor as the commissioner may deem essential to further the object sought to be obtained by this statute, together with such strictures on the condition of labor and the probable future of the same as he may deem good and salutary to insert in his biennial reports.

Duties of state officers.

SEC. 4. It shall be the duty of all officers of state departments, and the assessors of the various counties of the state, to furnish, upon the written request of the commissioner, all the information in their power necessary to assist in carrying out the objects of this act; and all printing required by the bureau in the discharge of its duty shall be performed by the state printing department, and at least three thousand (3,000) copies of the printed report shall be furnished the commissioner for free distribution to the public.

Hindering commissioner.

SEC. 5. Any person who wilfully impedes or prevents the commissioner, or his deputy, in the full and free performance of his or their duty, shall be guilty of a misdemeanor, and upon conviction of the same shall be fined not less than ten (10) nor more than fifty (50) dollars, or imprisoned not less than seven (7) nor more than thirty (30) days in the county jail, or both.

Information to be furnished.

SEC. 6. The office of the bureau shall be open for business from nine (9) o'clock a. m. until five (5) o'clock p. m. every day except non-judicial days, and the officers thereof shall give to all persons requesting it all needed information which they may possess.

Witnesses, etc.

SEC. 7. (As amended, Stats. 1889, p. 6; Stats. 1915, chap. 547.) The commissioner and his representatives duly authorized by him in writing shall have the power and authority to issue subpœnas, to compel the attendance of witnesses or parties and the production of books, papers or records, and to administer oaths and to examine witnesses under oath, and to take the verification or proof of instruments of writing, and to take depositions and affidavits for the purpose of carrying out the provisions of this act and all other acts now or hereafter placed in the bureau for enforcement. The commissioner shall have a seal inscribed "Bureau of Labor Statistics—State of California" and all courts shall take judicial notice of such seal. Obedience to subpœnas

Seal.

issued by the commissioner or his duly authorized representatives shall be enforced by the courts in any county or city and county. The commissioner and his representatives shall have free access to all places and works of labor, and any principal, owner, operator, manager, or lessee of any mine, factory, workshop, manufacturing or mercantile establishment, or any agent or employee of such principal, owner, operator, manager, or lessee who shall refuse to said commissioner, or his duly authorized representative, admission therein, or who shall, when requested by him wilfully neglect or refuse to furnish to him any statistics or information, pertaining to his lawful duties, which may be in his possession or under the control of said principal, owner, operator, lessee, manager or agent thereof, shall be punished by a fine of not more than two hundred dollars. Access to places of labor. Statistics to be furnished. Penalty.

SEC. 8. (As amended, Stats. 1889, p. 7.) No use shall be made in the reports of the bureau of the names of individuals, firms, or corporations supplying the information called for by this act, such information being deemed confidential, and not for the purpose of disclosing any person's affairs; and any agent or employee of said bureau violating this provision shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine not to exceed five hundred dollars or by imprisonment in the county jail not to exceed six months. Information confidential.

SEC. 9. (As amended, Stats. 1889, p. 7; 1907, pp. 306, 307; 1909, p. 36; 1911, chap. 634; Stats. 1915, chap. 550; Stats. 1917, chap. 211.) The commissioner shall appoint two deputies who shall have the same power as said commissioner; an assistant deputy who shall reside in the county of Los Angeles; a statistician and chief examiner; a stenographer; and such agents or assistants as he may from time to time require, at such rate of wages as he may prescribe, and actual traveling expenses for each person while employed. He shall procure rooms necessary for offices in San Francisco, Los Angeles, Sacramento, San Diego, and in such other places as he may deem necessary, at a rent not to exceed the sum of four hundred dollars per month. Deputies. Assistants. Offices.

SEC. 10. (As amended, Stats. 1889, p. 7; 1907, pp. 306, 307; 909, p. 36; 1911, chap. 634; Stats. 1915, chap. 550;

Salaries. Stats. 1917, chap. 211.) The salary of the commissioner shall be four thousand dollars per annum; the salary of each deputy commissioner shall be two thousand four hundred dollars per annum; the salary of the assistant deputy shall be two thousand one hundred dollars per annum; the salary of the statistician and chief examiner shall be two thousand seven hundred dollars per annum; the salary of the stenographer shall be one thousand two hundred dollars per annum; to be audited by the controller and paid by the state treasurer in the same manner as other state officers. There shall also be allowed a sum not to exceed forty thousand dollars per annum for salaries of agents or assistants, for traveling expenses, and for other contingent expenses of the bureau.

Traveling expenses.

Inspection of scaffolding.

SEC. 12. (As amended, Stats. 1901, p. 12.) Whenever complaint is made to the commissioner that the scaffolding, or the slings, hangers, blocks, pulleys, stays, braces, ladders, irons, or ropes of any swinging or stationary scaffolding used in the construction, alteration, repairing, painting, cleaning, or painting of a building are unsafe or liable to prove dangerous to the life or limb of any person, such commissioner shall immediately cause an inspection to be made of the scaffolding or the slings, hangers, blocks, pulleys, stays, braces, ladders, irons, or other parts connected therewith. If after examination such scaffolding or any of such parts is found dangerous to life or limb, the commissioner shall prohibit the use thereof, and require the same to be altered and reconstructed so as to avoid such danger. The commissioner, deputy commissioner, or agent or assistant making the examination shall attach a certificate to the scaffolding, or the slings, hangers, irons, ropes, or other parts thereof, examined by him, stating that he has made such examination and that he found it safe or unsafe as the case may be. If he declared it unsafe, he shall at once, in writing, notify the person responsible for its erection of the fact and warn him against the use thereof. Such notice may be served personally upon the person responsible for its erection or by conspicuously affixing to the scaffolding or the part thereof declared to be unsafe. After such notice has been so served or affixed the person responsible therefor shall immediately remove such scaffolding or part thereof

and alter or strengthen it in such a manner as to render it safe, in the discretion of the officer who has examined it or of his superiors. The commissioner, his deputy, and any duly authorized representative whose duty it is to examine or test any scaffolding or part thereof as required by this section, shall have free access, at all reasonable hours, to any building or premises containing them or where they may be in use. All swinging and stationary scaffolding shall be so constructed as to bear four times the maximum weight required to be dependent therefrom and placed thereon, when in use, and not more than four men shall be allowed on any swinging scaffolding at one time.

This act shall take effect immediately.

ACT No. 1829.

(Stats. 1913, chap. 227.)

Attorney—Bureau of Labor Statistics.

SECTION 1. The office of attorney for the state bureau of labor statistics is hereby created. Said attorney shall be appointed by the commissioner of the bureau of labor statistics. Duties.

SEC. 2. It shall be the duty of such attorney to act for and represent the state bureau of labor statistics and the commissioner thereof in all legal matters which may require the attention of such state bureau of labor statistics and the commissioner thereof, and to specially represent and act for and in co-operation thereof, when required, in the prevention of all acts and things which, in the judgment of the state bureau of labor statistics or the commissioner thereof, as will best subserve and carry out the provisions of an act entitled, "An act to establish and support a bureau of labor statistics," approved March 3, 1883; and also, all other acts which have been or may be hereafter designated by the legislature to be enforced by said state bureau of labor statistics or the commissioner thereof, and in all other matters pertaining to the welfare of minors and labor generally and to assist and aid the said bureau and the commissioner thereof with his advice, and to represent and act for the same in court.

Salary.

SEC. 3. The salary of such attorney shall be twenty-four hundred dollars per annum and shall be paid out of the state treasury, upon warrants drawn by the controller, in the same manner as the salaries of other state officers are paid.

SEC. 4. All acts and parts of acts in conflict with this act are hereby repealed.

ACT No. 1829a.

(Stats. 1915, chap. 484.)

Enforcement of labor laws.

Commissioner of bureau of labor statistics to enforce labor laws.

SECTION 1. The commissioner of the bureau of labor statistics shall have authority and power to enforce any and all labor laws of the State of California, the enforcement of which is not specifically vested in any other officer, board or commission, and the deputies and agents of the said labor commissioner shall have the power and authority of sheriffs and other peace officers to make arrests, and to serve any process or notice throughout the state in the enforcement of such labor laws, pursuant to the instructions of said commissioner.

ACT No. 1830.

(Stats. 1909, page 546.)

Unlawful wearing of union button.

SECTION 1. Any person who shall wilfully wear the button of any labor union of this state, unless entitled to wear said button under the rules of such union, shall be guilty of a misdemeanor, and, upon conviction, shall be punished by imprisonment for a term not to exceed twenty days in the county jail or by a fine not to exceed twenty dollars, or by both such fine and imprisonment.

ACT No. 1831.

(Stats. 1909, page 668.)

Unlawful using of union card.

SECTION 1. Any person who shall wilfully use the card of any labor union to obtain aid, assistance or employment, thereby within this state, unless entitled to use the said card

under the rules and regulations of a labor union within this state, shall be guilty of a misdemeanor.

SEC. 2. All acts, and parts of acts, in conflict with the provisions of this act, are hereby repealed.

ACT No. 2062.

(Stats. 1909, page 400.)

Shoddy—Labeling of.

SECTION 1. All persons manufacturing in this state, in whole or in part, any article of hotel, boarding house, lodging house or domestic or office furniture, or beds or mattresses, or cushions, used or intended to be or that could be used by human beings, that are stuffed or made in whole or in part, with material composed in whole or in part from second-hand or cast-off clothing, rags, or second-hand, or cast-off material of any character whatever, or with shoddy, shall at the time of the completion of such manufacture attach to a conspicuous place upon each of such articles so manufactured by him, a label or stamp showing the correct character of the materials with which the cushion portion of such articles of furniture or beds or cushions or mattresses are stuffed, and no person so manufacturing any such articles shall allow the same or any thereof to leave his possession in the course of trade or business unless such label or stamp is so affixed, and no person shall sell, or offer for sale, in this state any of such articles of furniture, or beds, or mattresses, or cushions, whether the same are manufactured in this state or not, unless such a label or stamp is so affixed.

SEC. 2. Any person violating any of the provisions of this act shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than fifty, nor more than five hundred dollars, or imprisoned not more than six months, or by both such fine and imprisonment.

SEC. 3. (As amended, Stats. 1911, chap. 73.) It shall be the duty of the commissioner of the bureau of labor statistics to enforce the provisions of this act. The commissioner, his deputies and agents shall have all powers and authority of sheriffs to make arrests for violations of the provisions of this act.

ACT No. 2063.

(Stats. 1913, chap. 255.)

Registration of factories, etc.

SECTION 1. (As amended, Stats. 1917, chap. 177.) The owner of any factory, workshop, mill or other manufacturing establishment, where five or more persons are employed, shall register such factory, workshop, mill or other manufacturing establishment with the bureau of labor statistics, giving the name of the owner, the name under which the business is carried on, the location of the plant, the address of the general offices or principal place of business and such other information as the commissioner of labor shall require. Such registration of existing factories, workshops, mills or other manufacturing establishments shall be made on or before January 1, 1914. All factories, workshops, mills or other manufacturing establishments hereafter established shall be so registered within thirty days after the commencement of business. Within thirty days after a change in the location of a factory, workshop, mill or other manufacturing establishment the owner thereof shall file with the commissioner of the bureau of labor statistics the new address. Whenever the commissioner of labor shall have been notified or otherwise becomes aware of the existence of a new factory, or factories, he shall forward a notification of said fact on or before the tenth day of each month to the state board of health and to the board of health or the health officer of the city and county wherein said factory or factories may be located.

Registration of factories, etc.

Enforcement.

SEC. 2. The bureau of labor statistics shall enforce the provisions of this act. The commissioner, his deputies and agents, shall have all the powers and authority of sheriffs or other peace officers, to make arrests for violations of the provisions of this act, and to serve any process or notice throughout the state.

Penalty.

SEC. 3. Any person, firm or corporation who violates or omits to comply with the provisions of this act is guilty of a misdemeanor, and shall upon conviction thereof, be punished by a fine of not less than twenty-five dollars or more than two hundred dollars, or by imprisonment for not more

than sixty days, or by both such fine and imprisonment. All fines imposed and collected under the provisions of this act shall be paid into the state treasury and credited to the contingent fund of the bureau of labor statistics.

ACT No. 2063a.

(Stats. 1913, chap. 278.)

Medical appliances to be kept in factories.

Medical chests required

SECTION 1. Every person, firm or corporation operating a factory or shop, or conducting any business in which power machinery is used for any manufacturing purpose, except for elevators or for heating or hoisting apparatus where five or more persons are employed, shall at all times keep and maintain, in some accessible place upon the premises upon which such factory, shop or business is located, free of expense to the employees, a medical or surgical chest which shall contain an adequate assortment of absorbent lint, absorbent cotton, sterilized gauze, plain and medicated, adhesive plaster, cotton and gauze bandages, also one tourniquet, one pair scissors, one pair tweezers, one jar carbolized petrolatum, one bottle antiseptic solution, and one first aid manual, all of which shall cost not less than six dollars, and to be used in the treatment of persons injured or taken ill upon the premises.

ACT No. 2137.

(Stats. 1893, page 54.)

Weekly day of rest.

One day's rest in seven.

SECTION 1. Every person employed in any occupation of labor shall be entitled to one day's rest therefrom in seven, and it shall be unlawful for any employer of labor to cause his employees, or any of them, to work more than six days in seven; *provided, however*, that the provisions of this section shall not apply to any case of emergency.

Application of law.

SEC. 2. For the purposes of this act, the term day's rest shall mean and apply to all cases, whether the employee is engaged by the day, week, month, or year, and whether the work performed is done in the day or night time.

Violation.

SEC. 3. Any person violating the provisions of this act shall be deemed guilty of a misdemeanor.

ACT No. 2139a.

(Stats. 1915, chap. 485.)

Employers to furnish pure drinking water.

Employers must furnish pure drinking water.

SECTION 1. Every employer of labor in this state shall, without making a charge therefor, provide fresh and pure drinking water to his employees during working hours. Access to such drinking water shall be permitted at reasonable and convenient times and places.

Penalty for violation.

Any violation of the provisions of this act shall be deemed a misdemeanor and punishable for each offense by a fine of not less than twenty-five dollars ($25.00) nor more than one hundred dollars ($100.00), or by imprisonment for not more than thirty (30) days, or by both such fine and imprisonment.

ACT No. 2140a.

(Stats. 1913, chap. 333.)

Advertisements during strikes, etc.

Advertising for labor during strikes.

SECTION 1. If any person, firm, or corporation, acting either for himself, or itself, or as the agent of another person, firm, or corporation, during the continuance of a strike, lockout, or other labor trouble among his, or its employees, or among the employees of the person, firm, or corporation, for whom he, or it is acting, advertises for employees in the newspapers, or by posters, or otherwise, or solicits persons to work for him, or the persons, firm, or corporation, for whom he is acting, in the place of the strikers, he shall plainly and explicitly mention in such advertisements, or oral or written solicitations, that a strike, lockout or other labor disturbance exists; *provided*, that the foregoing provisions shall not apply to advertisements or solicitations published solely or made within the same city or locality where the strike, lockout or other labor disturbance exists.

Penalty.

SEC. 2. If any person, firm, association or corporation violates any provisions of this act, he or it shall be punished by a fine not less than twenty-five dollars and not exceeding two hundred and fifty dollars for each offense.

ACT No. 2140b.

(Stats. 1915, chap. 38.)

Interference with political activities of employees.

Political activities of laborers not to be interfered with.

SECTION 1. It shall be unlawful for any employer of labor to make, adopt or enforce any rule, regulation or policy forbidding or preventing his employees, or any of them, from engaging or participating in politics or from becoming candidates or a candidate for public office, or controlling or directing, or tending to control or direct the political activities or affiliations of such employees or any of them; or to coerce or influence or attempt to coerce or influence such employees or any of them through or by means of threat of discharge or loss of employment to adopt or follow or refrain from adopting or following any particular course or line of political action or political activity. The expression "employer of labor" as herein used shall be deemed to mean and include any person, firm or corporation regularly having in his or its employ twenty or more employees.

Penalty.

SEC. 2. Any employer violating the provisions of this act shall upon conviction thereof, if an individual, be punishable by imprisonment in the county jail for not to exceed one year or by a fine of not to exceed one thousand dollars or by both such fine and imprisonment, and, if a corporation, by a fine of not to exceed five thousand dollars. In all prosecutions hereunder the person, firm or corporation violating this act, shall be held responsible for the acts of his or its managers, officers, agents and employees.

SEC. 3. Nothing herein contained shall be construed to prevent the injured employee from recovering damages from his employer for injury suffered through a violation of this act.

ACT No. 2140d.

(Stats. 1915, chap. 65.)

Spotter Law.

Employee not to be discharged on "spotter's" report without hearing.

SECTION 1. It shall be unlawful for any public service corporation, agent, superintendent or manager thereof, employing any special agent, detective, or person commonly known as "spotter" for the purpose of investigating, obtaining and reporting to the employer, its agent, superintendent or manager, information concerning its employees, to discipline or discharge any employee in its service, where such

act of discipline or the discharge is based upon a report by such special agent, detective or spotter, which report involves a question of integrity, honesty or a breach of rules of the employer, unless such employer, its agent, superintendent or manager, shall give notice and accord a hearing to the employee thus accused, when requested by said employee, at which hearing said employer shall state specific charges on which said act or discharge is based and at which said accused employee shall have the right to furnish testimony in his defense.

Penalty. SEC. 2. Each and every violation of this act by any person, firm, association or corporation shall be deemed a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than fifty dollars and not more than three hundred dollars, or by imprisonment in the county jail for a period of not more than one year, or by both such fine and imprisonment. In case of a public service corporation committing any violation of this act the imprisonment when imposed shall be imposed upon the officers or agents thereof committing such offense.

ACT No. 2141.

(Stats. 1909, page 157; entire act amended, Stats. 1911, chapter 590.)

Protection of workmen on buildings.

SECTION 1. Any building more than two stories high in the course of construction shall have the joists, beams or girders of each and every floor below the floor or level where any work is being done, or about to be done, covered with flooring laid close together, or with such other suitable material to protect workmen engaged in such building from falling through joists or girders, and from falling planks, bricks, rivets, tools, or any other substance whereby life and limb are endangered.

SEC. 2. Such flooring shall not be removed until the same is replaced by the permanent flooring in such building.

SEC. 3. It shall be the duty of the general contractor having charge of the erection of such building to provide for the flooring as herein required, or to make such arrangements as may be necessary with subcontractors in order that the provisions of this act may be carried out.

SEC. 4. It shall be the duty of the owner or the agent of the owner of such building to see that the general contractor or subcontractors carry out the provisions of this act.

SEC. 5. Should the general contractor or subcontractors of such building fail to provide for the flooring of such building, as herein provided, then it shall be the duty of the owner or the agent of the owner of such building to see that the provisions of this act are carried out.

SEC. 6. Failure upon the part of the owner, agent of the owner, general contractor, or subcontractors to comply with the provisions of this act shall be deemed a misdemeanor and shall be punishable as such.

SEC. 7. This act shall take effect within sixty days.

ACT No. 2141a.

(Stats. 1913, chap. 48.)

Scaffolding for protection of workmen.

SECTION 1. All scaffolding or staging, swung or suspended from an overhead support which is more than twenty feet from the ground or floor, shall have a safety rail of wood or other equally rigid material of sufficient strength to bear any sudden strain there against equal to four times the weight of an ordinary man, such rail to be properly secured and braced in a manner to withstand a sudden strain as hereinbefore prescribed; such rail to rise at least thirty-four inches above the floor or floors or main portions of such scaffolding or staging, and extending along the entire length of the outside and the ends thereof, and properly attached thereto to withstand any strain as hereinbefore provided; and such scaffolding or staging shall be fastened so as to prevent the same from swaying from the building or structure, or place of work where such scaffolding or staging is being used. Any and all parts of such scaffolding or staging shall be of sufficient strength to support, bear, or withstand, with safety, any weight of persons, tools, appliances, or materials that may be placed thereupon or that are to be supported thereby while such scaffolding or staging is being used for any of the purposes thereof. Safety rail or scaffolding.

SEC. 2. In addition to the duties imposed upon an employer by any law regulating or relating to scaffolding or Safety lines.

staging, it shall be the duty of such employer who uses or permits the use of scaffolding or staging, as defined in section one of this act, in connection with construction, alteration, repairing, painting, cleaning or the doing of any other kind of work upon any building structure, or other thing or place of work, to furnish safety lines to tie all hooks and hangers back on the roof of such building, structure or other thing or place of work, and to provide safety lines hanging from the roof, securely tied thereto, and one such line to be provided between each pair of hangers or falls and near the ends of all such scaffolding or staging. When planks are used for the platforms or floors of such scaffolding or staging, they shall be not less than fourteen inches in width, and not less than one and one-half inches in thickness, and shall be of wood free from knots or fractures impairing the strength of such planks. Not more than two men shall be allowed or placed to work between two hangers or falls upon such scaffolding or staging.

Penalty.

SEC. 3. Any violation of the provisions of this act shall be punishable as provided in section four hundred and two *c* of the Penal Code, and shall be in addition to the penalties provided therein for the violation of any of the provisions of the said section.

SEC. 4. It shall be the duty of the commissioner of the bureau of labor statistics to enforce the provisions of this act.

ACT No. 2141b.

(Stats. 1913, chap. 182; entire act amended Stats. 1915, chap. 329.)

Sanitation of camps.

Camps to be kept clean.

SECTION 1. In or at any camp where five or more persons are employed, the bunkhouses, tents and other sleeping places of such employees shall be kept in a cleanly state, and free from vermin and matter of an infectious and contagious nature, and the grounds around such bunkhouses, tents or other sleeping places shall be kept clean and free from accumulations of dirt, filth, garbage, and other deleterious matter.

Air space.

SEC. 2. Every bunkhouse, tent or other sleeping place used for the purpose of a lodging or sleeping apartment in such camp, shall contain sufficient air space to insure an adequate supply of fresh air for each person occupying such

bunkhouse, tent or other sleeping place. The bunks or beds shall be made of iron, canvas or other sanitary material and shall be so constructed as to afford reasonable comfort to the persons occupying such bunks or beds. Bunks or beds.

SEC. 3. Every mess house, dining room, mess tent, dining tent, kitchen, or other structure where food is cooked, prepared or served in such camp shall be kept in a clean and sanitary state and the openings of such structures shall be screened. Mess house or dining room.

SEC. 4. For every such camp there shall be provided convenient and suitable privy or other toilet facilities, which shall be kept in a clean and sanitary state. A privy other than a water-closet shall consist of a pit at least two feet deep, with suitable shelter over the same, and the openings of the shelter and pit shall be enclosed by screening or other suitable fly netting. No privy pit shall be filled with excreta to nearer than one foot from the surface of the ground and the excreta in the pit shall be covered with earth, ashes, lime, or other similar substance. Privies or toilets.

SEC. 5. All garbage, kitchen wastes and other rubbish in such camp shall be deposited in suitable covered receptacles which shall be emptied daily or oftener if necessary, and the contents burned, buried or otherwise disposed of in such a way as not to be or become offensive or insanitary. Garbage.

SEC. 6. It shall be the duty of any person, firm, corporation, agent or officer of a firm or corporation employing persons to work in or at camps to which the provisions of this act apply and the superintendent or overseer in charge of the work in or at such camps to carry out the provisions of this act.

SEC. 7. The commission of immigration and housing of California shall administer this act and secure the enforcement of the provisions thereof, and for such purposes shall have the right to enter and inspect all camps to which the provisions of this act apply. Any camp coming under the provisions of this act which does not conform to the provisions of this act is hereby declared a public nuisance and if not made to so conform within five days, or within such longer period of time as may be allowed by the commission of immigration and housing of California, after written notice Enforcement.

given by the said commission, shall be abated by proper action brought for that purpose in the superior court of the county in which such camp, or the greater portion thereof, is situated.

Penalty. SEC. 8. Any person, firm, corporation, agent or officer of a firm or corporation, or any superintendent or overseer in charge of the work in or at any camp coming under the provisions of this act, who shall violate or fail to comply with the provisions of this act, is guilty of a misdemeanor, and shall upon conviction thereof, be punished by a fine of not more than two hundred dollars, or by imprisonment for not more than sixty days, or by both such fine and imprisonment.

SEC. 2. Out of any money in the state treasury not otherwise appropriated the sum of ten thousand dollars or so much thereof as may be necessary is hereby appropriated to be expended by the commission of immigration and housing of California in accordance with law to carry out the provisions of this act.

ACT No. 2142.

(Stats. 1911, chap. 92.)

Payment of wages—Must be negotiable.

Orders, etc., must be negotiable. SECTION 1. (As amended, Stats. 1915, chap. 628.) No person, firm or corporation shall issue, in payment of or as an evidence of indebtedness for wages due an employee, any order, check, memorandum, or other acknowledgment of indebtedness, unless the same is negotiable, and is payable upon demand without discount in cash at some bank or other established place of business in the state; and no person, firm or corporation shall issue in payment of wages due, or wages to become due an employee, or as an advance on wages to be earned by an employee, any scrip, coupons, cards or other thing redeemable in merchandise or purporting to be payable or redeemable otherwise than in money. But nothing herein contained shall be construed to prohibit an employer from guaranteeing the payment of bills incurred by an employee for the necessaries of life or for the tools and implements used by such employee in the performance of his duties; *provided, however*, that the provisions of this act shall not apply to counties, cities and counties, municipal cor-

Scrip, etc., prohibited.

porations, quasi-municipal corporations or school districts organized and existing under the laws of this state.

SEC. 2. (As amended, Stats. 1915, chap. 628.) Any person, firm or corporation, or agent or officer thereof, who shall violate any of the provisions of this act shall be guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine not to exceed five hundred dollars, or by imprisonment in the county jail for not more than six months, or by both such fine and imprisonment. Penalty.

ACT No. 2143.

(Stats. 1911, chap. 663.)

Wages—Time of payment.

SECTION 1. Whenever an employer discharges an employee, the wages earned and unpaid at the time of such discharge shall become due and payable immediately. When any such employee not having a contract for a definite period quits or resigns his employment the wages earned and unpaid at the time of such quitting or resignation shall become due and payable five days thereafter. Wages of discharged employees.

SEC. 2. All wages other than those mentioned in section one of this act earned by any person during any one month shall become due and payable at least once in each month and no person, firm or corporation for whom such labor has been performed, shall withhold from any such employee any wages so earned or unpaid for a longer period than fifteen days after such wages become due and payable; *provided, however*, that nothing herein shall in any way limit or interfere with the right of any such employee to accept from any such person, firm or corporation wages earned and unpaid for a shorter period than one month. Wages to be paid monthly.

SEC. 3. (As amended, Stats. 1915, chap. 143.) In the event that an employer shall fail to pay, without abatement or deduction, within five days after the same shall become due under the provisions of section one of this act, any wages of any employee who is discharged or who resigns or quits, as in said section one provided, then as a penalty for such non-payment the wages of such servant or employee shall continue from the due date thereof at the same rate until Penalties.

paid; or until an action therefor shall be commenced; *provided*, that in no case shall such wages continue for more than thirty days; *and provided, further*, that no such employee who secretes or absents himself to avoid payment to him, or refuses to receive the same when fully tendered, shall be entitled to any benefit under this act for such time as he so avoids payment. In the happening of any strike, the unpaid wages of such striking employees earned prior to the occurrence thereof shall become due and payable upon the employer's next regular pay day, and if then paid or tendered, the provisions of this section shall have no application.

Every person indebted to another for labor, or any agent of any person, co-partnership, association or corporation so indebted, who, having the ability to pay, shall wilfully refuse to pay the same, or falsely deny the amount or validity thereof, or that the same is due, with intent to secure, for himself or any other person, any discount upon such indebtedness, or with intent to annoy, harass, or oppress, or hinder, or delay, or defraud the person to whom such indebtedness is due, shall be guilty of a misdemeanor.

Not applicable.

SEC. 4. None of the provisions of this act shall apply to any county, city and county, incorporated city or town, or other municipal corporation.

ACT No. 2143a.

(Stats. 1913, chap. 198.)

Payment of wages earned in seasonal labor.

"Seasonal labor" defined.

SECTION 1. For the purpose of this act the term "seasonal labor" shall include all work performed by any person employed for a period of time greater than one month, and where the wages for such work are not to be paid at any fixed intervals of time, but at the termination of such employment, and where the work is to be performed outside of this state; *provided*, that such person is hired within this state and the wages earned during such employment are to be paid in this state at the termination of such employment.

Wages paid in presence of examiner.

SEC. 2. Upon application of either the employer or the employee, the wages earned in seasonal labor, shall be paid in the presence of the commissioner of the bureau of labor statistics or an examiner appointed by him.

SEC. 3. The commissioner shall hear and decide all disputes arising from wages earned in seasonal labor and he shall allow or reject any deductions made from such wages; *provided, however*, that he shall reject all deductions made for gambling debts incurred by the employee during such employment and for liquor sold to the employee during such employment. Wages disputed.

SEC. 4. After final hearing by the commissioner, he shall file in the office of the bureau of labor statistics, a copy of the findings upon facts and his award. Findings filed.

SEC. 5. The amount of the award of the commissioner shall be conclusively presumed to be the amount of the wages due and unpaid to the employee at the time of the termination of the employment, and prosecution may be commenced under the provisions of an act entitled, "An act providing for the time of payment of wages," approved May 1, 1911. Award, wages due.

SEC. 6. The commissioner or any examiner appointed by him, shall have power and authority to issue subpœnas to compel attendance of witnesses or parties, and the production of books, papers or records and to administer oaths. Obedience to such subpœnas shall be enforced by the courts of any county or city and county. May issue subpœnas.

SEC. 7. This act shall not be construed to apply to the wages earned by seamen or other persons, where the payment of wages is regulated by federal statute. Not applicable to seamen.

ACT No. 2143b.

(Stats. 1915, chap. 657.)

Semimonthly pay day law.

SECTION 1. All wages or compensation of employees in private employments shall be due and payable semi-monthly, that is to say, all such wages or compensation earned and unpaid prior to the first day of any month, shall be due and payable not later than the fifteenth day of the month following the one in which such wages were earned; and all wages or compensation earned and unpaid prior to the sixteenth day of any month, shall be due and payable not later than the last day of the same month. The words "private employments" used in this act shall mean and include all employments other than those mentioned in section six hereof Wages payable semi-monthly.

and those under the direct management, supervision and control of the State of California, any county, city and county, incorporated city or town, or other municipal corporation or political subdivision of the State of California, or any officer or department thereof. But nothing contained herein shall be construed as prohibiting the payment of wages at more frequent periods than semi-monthly.

SEC. 2. Every employer shall establish and maintain regular pay days as herein provided, and shall post and maintain notices, printed or written in plain type or script, in at least two conspicuous places where said notices can be seen by the employees as they go to and from the work, setting forth the regular pay days as herein prescribed.

SEC. 3. The payment of wages or compensation of employees in the employments defined herein, shall be made in lawful money of the United States or by a good and valid negotiable check or draft, payable on presentation thereof at some bank or other established place of business, located in this state, without discount in lawful money of the United States, and not otherwise.

SEC. 4. In case an employee in any said employment shall be absent from the usual place of employment at the time said payment shall be due and payable as hereinabove provided, he shall be paid the wages or compensation within five days after making a demand therefor.

SEC. 5. Every person, or any agent of any person, co-partnership, association or corporation, who, having the ability to pay, shall wilfully refuse to pay the wages due and payable when demanded, as herein provided, or falsely deny the amount or validity thereof, or that the same is due, with intent to secure, for himself or any other person, any discount upon such indebtedness, or with intent to annoy, or harass, or oppress, or hinder, or delay, or defraud the person to whom such indebtedness is due, shall be guilty of a misdemeanor.

Excepted employments.

SEC. 6. This act shall not apply to employers and employees engaged in farm, dairy, agricultural, viticultural or horticultural pursuits, in stock or poultry raising, in household domestic service, or to employers having less than six employees regularly employed.

SEC. 7. The commissioner of the bureau of labor statistics shall enforce the provisions of this act.

ACT No. 2144a.

(Stats. 1913, chap. 176, as amended; Stats. 1917, chap. 586.)

Workmen's Compensation, Insurance and Safety Act.

(Act of 1917.)

SECTION 1. This act and each and every part thereof is an expression of the police power and is also intended to make effective and apply to a complete system of workmen's compensation the provisions of section seventeen and one-half of article twenty and section twenty-one of article twenty of the constitution of the State of California. A complete system of workmen's compensation includes adequate provision for the comfort, health, safety and general welfare of any and all employees and those dependent upon them for support to the extent of relieving from the consequences of any injury incurred by employees in the course of their employment, irrespective of the fault of any party; also full provision for securing safety in places of employment, full provision for such medical, surgical, hospital and other remedial treatment as is requisite to cure and relieve from the effects of such injury, full provision for adequate insurance coverage against the liability to pay or furnish compensation, full provision for regulating such insurance coverage in all its aspects including the establishment and management of a state compensation insurance fund, full provision for otherwise securing the payment of compensation, and full provision for vesting power, authority and jurisdiction in an administrative body with all the requisite governmental functions to determine any matter arising under this act to the end that the administration of this act shall accomplish substantial justice in all cases expeditiously, inexpensively and without incumbrance of any character; all of which matters contained in this section are expressly declared to be the social public policy of this state, binding upon all departments of the state government.

Expression of "police power."

General objects.

The "social public policy."

(Act of 1913.)

SECTION 1. This act shall be known, and may be cited, as the "workmen's compensation, insurance and safety act" and shall apply to the subjects mentioned in its title.

(Act of 1917.)

SEC. 2. This act shall be known and may be cited as the "workmen's compensation, insurance and safety act of 1917" and shall apply to the subjects mentioned in its title.

SEC. 3. The following terms as used in this act shall, unless a different meaning is plainly required by the context, be construed as follows:

"Commission." (1) The term "commission" means the industrial accident commission of the State of California as created under the provisions of chapter one hundred seventy-six of the laws of 1913.

"Commissioner." (2) The term "commissioner" means one of the members of the commission.

"Compensation." (3) The term "compensation" means compensation under this act and includes every benefit or payment conferred by sections six to thirty-one, inclusive, of this act upon an injured employee, or in the event of his death, upon his dependents, without regard to negligence.

"Injury." (4) The term "injury," as used in this act, shall include any injury or disease arising out of the employment. In case of aggravation of any disease existing prior to such injury, compensation shall be allowed only for such proportion of the disability due to the aggravation of such prior disease as may reasonably be attributed to the injury.

"Damages." (5) The term "damages" means the recovery allowed in an action at law as contrasted with compensation under this act.

"Person." (6) The term "person" includes an individual, firm, voluntary association, or a public, quasi-public or private corporation.

"Insurance carrier." (7) The term "insurance carrier" includes the state compensation insurance fund and any private company, corporation, mutual association, reciprocal or interinsurance exchange authorized under the laws of this state to insure employers against liability for compensation under this act.

"Compensation provisions." (8) The phrase "compensation provisions of this act" means and includes sections six to thirty-one, inclusive, of this act.

"Safety provisions." (9) The phrase "safety provisions of this act" means and includes sections thirty-three to fifty-four, inclusive, of this act.

Singular and plural. Gender. (10) Whenever in this act the singular is used, the plural shall be included; where the masculine gender is used, the feminine and neuter shall be included.

(Act of 1913.)

Members. SEC. 3. There is hereby created a board to consist of three members who shall be appointed by the governor from the state at large and which shall be known as the "industrial accident commission" and shall have the powers, duties and functions hereinafter conferred. Within thirty days prior to the first day of January, 1914, the governor shall appoint the three members of said commission, one for the term of two years, one for the term of three years and one for the term of four years. Thereafter the term of office of each commissioner shall be four years. Vacancies shall be filled by appointment in the same manner for the unexpired term. Each commissioner shall receive an annual salary of five thousand dollars. Each commissioner shall, before entering upon the duties of his office, take and subscribe the constitutional oath of office.

Term of office.

Vacancies.

Organization. SEC. 4. The commission shall organize by choosing one of its members as chairman. A majority of the commission shall constitute a quorum for the transaction of any business, for the performance of any duty, or for the exercise of any power or authority of the commission. A vacancy on the commission shall not impair the right of the remaining members to perform all the duties and exercise all the power and authority of the commission. The act of the majority of the commission, when in session as a commission, shall be deemed to be the act of the commission, but any investigation, inquiry or hearing, which the commission has power to undertake or to hold, may be undertaken or held by or before any member thereof or any referee appointed by the commission for that purpose, and every finding, order, decision, or award made by any commissioner or referee, pursuant to such investigation, inquiry or hearing, when approved and confirmed by the commission and ordered filed in its office, shall be deemed to be the finding, order, decision or award of the commission.

Majority to act.

Hearing and order.

Award by commissioner or referee.

Seal. SEC. 5. The commission shall have a seal, bearing the following inscription: "Industrial Accident Commission State of California, seal." The seal shall be affixed to all writs and authentications of copies of records and to such other instruments as the commission shall direct. All courts shall take judicial notice of said seal.

Offices. SEC. 6. The commission shall keep its principal office in the city and county of San Francisco, and shall also keep an office in the city of Los Angeles, and shall provide itself with suitable

rooms, necessary office furniture, stationery and other supplies. For the purpose of holding sessions in other places, the commission shall have power to rent temporary quarters.

SEC. 7. The commission shall have full power and authority:

Attorney. (1) To appoint as its attorney an attorney at law of this state, who shall hold office at the pleasure of the commission. It shall be the right and the duty of the attorney to represent and appear for the people of the State of California and the commission in all actions and proceedings involving any question under this act or under any order or act of the commission and, if directed so to do by the commission, to intervene, if possible, in any action or proceeding in which any such question is involved; to commence, prosecute and expedite the final determination of all actions or proceedings, civil or criminal, directed or authorized by the commission; to advise the commission and each member thereof, when so requested, in regard to all matters in connection with the jurisdiction, powers or duties of the commission and members thereof; and generally to perform all duties and services as attorney to the commission which may be required of him.

Secretary. (2) To appoint, and it shall appoint, a secretary, who shall hold office at the pleasure of the commission. It shall be the duty of the secretary to keep a full and true record of all the proceedings of the commission, to issue all necessary processes, writs, warrants and notices which the commission is required or authorized to issue, and generally to perform such other duties as the commission may prescribe. The commission may also appoint such assistant secretaries as may be necessary and such assistant secretaries may perform any duty of the secretary, when so directed by the commission.

Assistant secretaries.

Manager state fund. (3) To appoint a manager of the state compensation insurance fund who shall hold office at the pleasure of the commission. It shall be the duty of such manager to manage, supervise and conduct, subject to the general direction and approval of the commission, the business and affairs of the state compensation insurance fund and to perform such other duties as the commission may prescribe. Before entering on the duties of his office, he must give an official bond in the sum of fifty thousand dollars, and take and subscribe to an official oath. Said bond must be approved by the commission, by written endorsement thereon, and be filed in the office of the secretary of state.

(4) To appoint a superintendent of the department of safety, who shall hold office at the pleasure of the commission and who shall perform such duties as the commission shall prescribe. Superintendent of safety.

(5) To employ such other assistants, officers, experts, statisticians, actuaries, accountants, inspectors, referees and other employees, as it may deem necessary to carry out the provisions of this act, or to perform the duties and exercise the powers conferred by law upon the commission. Other assistants.

SEC. 4. The commission shall have power and authority to appoint an assistant to its attorney, who shall be an attorney at law of this state, and who shall hold office at the pleasure of the commission. It shall be the right and duty of such assistant attorney to perform any of the duties of the attorney of the commission under the direction of the commission or its attorney. Assistant attorney.

(Act of 1917.)

SEC. 5. Said commission is hereby vested with full power, authority and jurisdiction under the provisions of this act and charged with the duties defined by the provisions of this act in addition to all other power, authority, jurisdiction and duties conferred upon it and exercised by it as heretofore created, constituted and existing. Full powers under both acts.

(Act of 1913.)

SEC. 8. All officers and employees of the commission shall receive such compensation for their services as may be fixed by the commission and shall hold office at the pleasure of the commission and shall perform such duties as are imposed on them by law or by the commission. The salaries of the members of the commission, its attorney, secretary and assistant secretary, as fixed by law or the commission, shall be paid in the same manner as are the salaries of other state officers. The salary or compensation of every other person holding office or employment under the commission, as fixed by law or by the commission, shall be paid monthly, after being approved by the commission, upon claims therefor to be audited by the state board of control. All expenses incurred by the commission pursuant to the provisions of this act, including the actual and necessary traveling and other expenses and disbursements of the members thereof, its officers and employees, incurred while on business of the commission, either within or without the state, shall, unless otherwise provided in this act, be Salaries. Expenses

paid from the funds appropriated for the use of the commission, after being approved by the commission, upon claims therefor to be audited by the board of control; *provided, however*, that no such expenses incurred outside of the state shall be allowed unless prior authorization therefor be obtained from the board of control.

Apportionment of expense.

SEC. 9. In all cases in which salaries, expenses or outgoings of one department under the jurisdiction of the commission are expended in whole or in part on behalf of another department the commission may apportion the same between such departments.

Blank forms.

SEC. 10. The commission shall cause to be printed and furnished free of charge to any employer or employee, or other person, such blank forms as it shall deem requisite to facilitate or promote the efficient administration of this act; it shall provide a book in which shall be entered the minutes of all its proceedings, a book in which shall be recorded all awards made by the commission and such other books or records as it shall deem requisite for the proper and efficient administration of this act; all such records to be kept in the office of the commission.

Records.

Fees for copies.

SEC. 11. The commission shall also have power and authority:

(1) To charge and collect the following fees: For copies of papers and records not required to be certified or otherwise authenticated by the commission, ten cents for each folio; for certified copies of official documents and orders filed in its office or of the evidence taken on proceedings had, fifteen cents for each folio.

Reports.

(2) To publish and distribute in its discretion from time to time, in addition to its annual report to the governor of the state, such further reports and pamphlets covering its operations, proceedings and matters relative to its work as it may deem advisable.

(3) To fix and collect reasonable charges for publications issued under its authority.

Disposition of fees.

(4) The fees charged and collected under this section shall be paid monthly into the treasury of the state to the credit of the "industrial accident fund" and shall be accompanied by a detailed statement thereof.

(Act of 1917.)

Conditions of compensation.

SEC. 6. (*a*) Liability for the compensation provided by this act, in lieu of any other liability whatsoever to any person, shall, without regard to negligence, exist against an employer for any injury sustained by his employees arising out of and in the course of the employment and for the death of any such employee if the injury

shall proximately cause death, in those cases where the following conditions of compensation concur:

(1) Where, at the time of the injury, both the employer and employee are subject to the compensation provisions of this act.

(2) Where, at the time of the injury, the employee is performing service growing out of and incidental to his employment and is acting within the course of his employment.

(3) Where the injury is proximately caused by the employment, either with or without negligence, and is not caused by the intoxication of the injured employee, or is not intentionally self-inflicted.

When no defense.

(4) Where the injury is caused by the serious and wilful misconduct of the injured employee, the compensation otherwise recoverable by him shall be reduced one-half: *provided, however*, that such misconduct of the employee shall not be a defense to the claim of the dependents of said employee, if the injury results in death, or to the claim of the employee, if the injury results in a permanent partial disability equaling or in excess of seventy per cent of total; *and provided, further*, that such misconduct of said employee shall not be a defense where his injury is caused by the failure of the employer to comply with any provisions of law, or any safety order of the commission, with reference to the safety of places of employment.

Compensation exclusive remedy.

Misconduct of employer.

(*b*) Where such conditions of compensation exist, the right to recover such compensation, pursuant to the provisions of this act, shall be the exclusive remedy against the employer for the injury or death; *provided*, that where the employee is injured by reason of the serious and wilful misconduct of the employer, or his managing representative, or if the employer be a partnership, on the part of one of the partners, or if a corporation, on the part of an executive or managing officer thereof, the amount of compensation otherwise recoverable for injury or death, as hereinafter provided, shall be increased one-half, any of the provisions of this act as to maximum payments or otherwise to the contrary notwithstanding; *provided, however*, that said increase of award shall in no event exceed twenty-five hundred dollars.

(*c*) In all other cases where the conditions of compensation do not concur, the liability of the employer shall be the same as if this act had not been passed.

SEC. 7. The term "employer" as used in sections six to thirty-one, inclusive, of this act shall be construed to mean: The state,

and each county, city and county, city, school district and all public corporations and quasi-public corporations therein, and every person, firm, voluntary association, and private corporation, including any public service corporation, who has any person in service under any appointment or contract of hire, or apprenticeship, express or implied, oral or written, and the legal representative of any deceased employer.

SEC. 8. (*a*) The term "employee" as used in sections six to thirty-one, inclusive, of this act shall be construed to mean: Every person in the service of an employer as defined by section seven hereof under any appointment or contract of hire or apprenticeship, express or implied, oral or written, including aliens, and also including minors, whether lawfully or unlawfully employed, and all elected and appointed paid public officers, and all officers and members of boards of directors of quasi-public or private corporations, while rendering actual service for such corporations for pay, but excluding any person whose employment is both casual and not in the course of the trade, business, profession or occupation of his employer, and also excluding any employee engaged in household domestic service, farm, dairy, agricultural, viticultural or horticultural labor, in stock or poultry raising and any person holding an appointment as deputy clerk, deputy sheriff or deputy constable appointed for the convenience of such appointee, who receives no compensation from the county or municipal corporation or from the citizens thereof for services as such deputy; *provided*, that such last exclusion shall not deprive any person so deputized from recourse against any private person employing him for injury occurring in the course of and arising out of such employment.

(*b*) Any person rendering service for another, other than as an independent contractor, or as expressly excluded herein, is presumed to be an employee within the meaning of this act. The term "independent contractor" shall be taken to mean, for the purposes of this act, any person who renders service, other than manual labor, for a specified recompense for a specified result, under the control of his principal as to the result of his work only and not as to the means by which such result is accomplished. A working member of a partnership receiving wages irrespective of profits from such partnership shall be deemed an employee within the meaning of this section.

Working partner.

(*c*) The term "casual" as used in this section shall be taken to refer only to employments where the work contemplated is to be completed in not exceeding ten working days, without regard to the number of men employed, and where the total labor cost of such work is less than one hundred dollars. The phrase "course of the trade, business, profession or occupation of his employer" shall be taken to include all services tending toward the preservation, maintenance or operation of the business, business premises or business property of the employer. The words "trade, business, profession or occupation of his employer" shall be taken to include any undertaking actually engaged in by him with some degree of regularity, the trade name, articles of incorporation or principal business of the employer to the contrary notwithstanding. "Casual."

(*d*) Watchmen for nonindustrial establishments, paid by subscription by several persons, shall not be held to be employees within the meaning of this act. In other cases where watchmen, paid by subscription by several persons, have at the time of the injury sustained by them taken out and maintained in full force and effect insurance upon themselves as self-employing persons conferring benefits equal to those conferred by this act, the employer shall not be liable under this act. Private watchmen.

(*e*) It shall not be a defense to the state, or any political subdivision or institution thereof, or public or quasi-public corporation, that a person injured while rendering service for it was not lawfully employed by reason of the violation of any civil service or other law, rule, or regulation respecting the hiring of employees. Employment in violation of civil service law.

(*f*) Workmen associating themselves under a partnership agreement, the principal purpose of which is the performance of the labor on a particular piece of work, shall be deemed employees of the person having such work executed, and, in the event the average weekly earnings are not otherwise ascertainable, shall be deemed to be employed at an average weekly wage of twelve dollars; *provided, however*, that if such workmen shall have taken out and maintained in full force and effect insurance, in an insurance carrier as defined in this act, insuring to themselves and all persons employed by them benefits identical with those conferred by this act, the person for whom such work is to be done shall not be liable as an employer under this act. "Station contracts." Partnership of workmen.

SEC. 9. Where liability for compensation under this act exists, such compensation shall be furnished or paid by the employer and be as provided in the following schedule:

(*a*) Such medical, surgical and hospital treatment, including nursing, medicines, medical and surgical supplies, crutches and apparatus, including artificial members, as may reasonably be required to cure and relieve from the effects of the injury, the same to be provided by the employer, and in case of his neglect or refusal seasonably to do so, the employer to be liable for the reasonable expense incurred by or on behalf of the employee in providing the same; *provided*, that if the employee so requests, the employer shall tender him one change of physicians and shall nominate at least three additional practicing physicians competent to treat the particular case, or as many as may be available if three can not reasonably be named, from whom the employee may choose; the employee shall also be entitled, in any serious case, upon request, to the services of a consulting physician to be provided by the employer; all of said treatment to be at the expense of the employer. If the employee so requests, the employer must procure certification by the commission or a commissioner of the competency for the particular case of the consulting or additional physicians; *provided, further*, that the foregoing provisions regarding a change of physicians shall not apply to those cases where the employer maintains, for his own employees, a hospital and hospital staff, the adequacy and competency of which have been approved by the commission. Nothing contained in this section shall be construed to limit the right of the employee to provide, in any case, at his own expense, a consulting physician or any attending physicians whom he may desire. Controversies between employer and employee, arising under this section, shall be determined by the commission, upon the request of either party.

Change of physicians.

Consulting physician.

Employer's hospital.

Employee's physician.

(*b*) If the injury causes temporary disability, a disability payment which shall be payable for one week in advance as wages on the eleventh day after the injured employee leaves work as a result of the injury. If the injury causes permanent disability, a disability payment which shall be payable for one week in advance as wages on the eleventh day after the injury. Such indemnity shall thereafter be payable on the employer's regular pay day, but not less frequently than twice in each calendar month, unless otherwise ordered by the commission, subject, however, to the following limitations:

(1) If the period of disability does not last longer than ten days from the day the employee leaves work as the result of the injury, no disability payment whatever shall be recoverable.

Waiting period.

(2) If the period of disability lasts longer than ten days from the day the employee leaves work as the result of the injury, no disability payment shall be recoverable for the first ten days of disability suffered.

2 The disability payment shall be as follows:

(1) If the injury causes temporary total disability, sixty-five per cent of the average weekly earnings during the period of such disability, consideration being given to the ability of the injured employee to compete in an open labor market; Temporary disability.

(2) If the injury causes temporary partial disability, sixty-five per cent of the weekly loss in wages during the period of such disability;

(3) If the temporary disability caused by the injury is at times total and at times partial the weekly disability payment during the period of each such total or partial disability shall be in accordance with paragraphs one and two of this subdivision respectively;

(4) Paragraphs one, two, and three of this subdivision shall be limited as follows: Aggregate disability payments for a single injury causing temporary disability shall not exceed three times the average annual earnings of the employee, nor shall the aggregate disability period for such temporary disability in any event extend beyond two hundred forty weeks from the date of the injury. Limitation of amount.

(5) If the injury causes permanent disability, the percentage of disability to total disability shall be determined and the disability payment computed and allowed as follows: For a one per cent disability, sixty-five per cent of the average weekly earnings for a period of four weeks; for a ten per cent disability, sixty-five per cent of the average weekly earnings for a period of forty weeks; for a twenty per cent disability, sixty-five per cent of the average weekly earnings for a period of eighty weeks; for a thirty per cent disability, sixty-five per cent of the average weekly earnings for a period of one hundred twenty weeks; for a forty per cent disability, sixty-five per cent of the average weekly earnings for a period of one hundred sixty weeks; for a fifty per cent disability, sixty-five per cent of the average weekly earnings for a period of two hundred weeks; for a sixty per cent disability, sixty-five per cent of the average weekly earnings for a period of two hundred forty weeks; for a seventy per cent disability, sixty-five per cent of the average weekly earnings for a period of two hundred forty weeks, and thereafter ten per cent of such weekly earnings during Permanent disability.

the remainder of life; for an eighty per cent disability, sixty-five per cent of the average weekly earnings for a period of two hundred forty weeks and thereafter twenty per cent of such weekly earnings during the remainder of life; for a ninety per cent disability, sixty-five per cent of the average weekly earnings for a period of two hundred forty weeks and thereafter thirty per cent of such weekly earnings during the remainder of life; for a hundred per cent disability, sixty-five per cent of the average weekly earnings for a period of two hundred forty weeks and thereafter forty per cent of such weekly earnings during the remainder of life.

(6) The payment for permanent disabilities intermediate to those fixed by the foregoing schedule shall be computed and allowed as follows: If under seventy per cent, sixty-five per cent of the average weekly earnings for four weeks for each one per cent of disability; if seventy per cent or over, sixty-five per cent of the average weekly earnings for two hundred forty weeks and thereafter one per cent of such weekly earnings for each one per cent of disability in excess of sixty per cent to be paid during the remainder of life.

Factors of permanent disability.

(7) In determining the percentages of permanent disability, account shall be taken of the nature of the physical injury or disfigurement, the occupation of the injured employee, and his age at the time of such injury, consideration being given to the diminished ability of such injured employee to compete in an open labor market.

Disability both temporary and permanent.

(8) Where an injury causes both temporary and permanent disability, the injured employee shall not be entitled to both a temporary and permanent disability payment, but only to the greater of the two.

Disability conclusively total.

(9) The following permanent disabilities shall be conclusively presumed to be total in character: Loss of both eyes or the sight thereof; loss of both hands or the use thereof; an injury resulting in a practically total paralysis; an injury to the brain resulting in incurable imbecility or insanity. In all other cases, permanent total disability shall be determined in accordance with the fact.

Previous injury not included.

(10) The percentage of permanent disability caused by any injury shall be so computed as to cover the permanent disability caused by that particular injury without reference to any injury previously suffered or any permanent disability caused thereby.

Rating schedule.

(11) The commission may prepare, adopt, and from time to time amend, a schedule for the determination of the percentages

of permanent disabilities, such table to be based upon the proper combinations of the factors indicated in subdivision seven above. Such schedule shall be available for public inspection and without formal introduction in evidence shall be prima facie evidence of the percentage of permanent disability to be attributed to each injury covered by said schedule.

Accrued compensation.

3. The death of an injured employee shall not affect the liability of the employer under subsections (*a*) and (*b*) of this section, so far as such liability has accrued and become payable at the date of the death, and any accrued and unpaid compensation shall be paid to the dependents, if any, or, if there are no dependents, to the personal representative of the deceased employee or heirs or other persons entitled thereto, without administration, but such death shall be deemed to be the termination of the disability.

(c) If the injury causes death, either with or without disability, the burial expense of the deceased employee as hereinafter limited and a death benefit which shall be payable in installments equal to sixty-five per cent of the average weekly earnings of the deceased employee, upon the employer's regular pay day, but not less frequently than twice in each calendar month, unless otherwise ordered by the commission, which death benefit shall be as follows:

Total dependency.

(1) In case the deceased employee leaves a person or persons wholly dependent upon him for support, such dependents shall be allowed the reasonable expense of his burial, not exceeding one hundred dollars, and a death benefit, which shall be a sum sufficient, when added to the disability indemnity which at the time of death has accrued and become payable, under the provisions of subsection (*b*) hereof, and the said burial expense, to make the total diasbility indemnity, cost of burial and death benefit equal to three times his average annual earnings, such average annual earnings to be taken at not less than three hundred thirty-three dollars and thirty-three cents nor more than one thousand six hundred sixty-six dollars and sixty-six cents.

Partial dependency.

(2) In case the deceased employee leaves no person wholly dependent upon him for support, but one or more persons partially dependent therefor, the said dependents shall be allowed the reasonable expense of his burial, not to exceed one hundred dollars, and, in addition thereto, a death benefit which shall amount to three times the annual amount devoted by the deceased to the support of the person or persons so partially dependent; *provided*, that the

Limitation of amount.

death benefit shall not be greater than a sum sufficient, when added to the disability indemnity which, at the time of the death, has accrued and become payable under the provisions of subsection (*b*) hereof, together with the cost of the burial of such deceased employee, to make the total disability indemnity, cost of burial and death benefit equal to three times his average annual earnings, such average annual earnings to be taken at not less than three hundred thirty-three dollars and thirty-three cents nor more than one thousand six hundred sixty-six dollars and sixty-six cents.

No dependents.

(3) If the deceased employee leaves no person dependent upon him for support, the death benefit shall consist of the reasonable expense of his burial not exceeding one hundred dollars.

(*d*) Payment of compensation in accordance with the order and direction of the commission shall discharge the employer from all claims therefor.

Inspection.

SEC. 10. The commission shall have power to inspect and determine the adequacy of hospitals and hospital facilities supplied by employers or by mutual associations of employees, with or without the concurrence of the employer, for the treatment of injuries coming within the provisions of this act. No part of any contribution paid by employees or deducted from their wages for the maintenance of such hospital facilities shall be devoted to the payment of any portion of the cost of providing compensation prescribed by this act. Nothing contained in this section shall be taken to prevent any hospital association or medical department furnishing the treatment prescribed in this act free of charge to employees.

Hospital report.

Every such hospital shall make to the commission from time to time, upon demand, but not less frequently than once a year, reports of receipts, disbursements and services rendered to or for employees. If in the judgment of the commission the services or equipment of any hospital are inadequate to meet the reasonable requirements of medical treatment contemplated in section nine (*a*) of this act, the commission may, after notice and an opportunity to be heard, declare such facilities to be inadequate and thereafter injured employees of such employer may procure treatment elsewhere, and the reasonable cost thereof shall be a charge against such employer under said section nine (*a*). Any finding of the commission, after such notice, determining the fact of such inadequacy, shall be conclusive evidence in any proceeding for compensation of the fact of such inadequacy during the period covered by such finding.

Finding of inadequacy.

Such finding of inadequacy may be amended, modified or rescinded by the commission at any time upon good cause appearing therefor.

SEC. 11. (*a*) Unless compensation is paid or an agreement for its payment made within the time limited in this section for the institution of proceedings for its collection, the right to institute such proceedings shall be barred; *provided*, that the filing of an application with the commission for any portion of the benefits prescribed by this act shall render this section inoperative as to all further claims of any person or persons for compensation arising from the same transaction, and the right to present such further claims shall be governed by the provisions of section twenty (*d*) and section sixty-five (*b*) of this act.

(*b*) The periods within which proceedings for the collection of compensation may be commenced are as follows:

(1) Proceedings for the collection of the benefit provided by subsection (*a*) of section nine or for the collection of the disability payment provided by subsection (*b*) of said section nine must be commenced within six months from the date of the injury, except as otherwise provided in this act.

(2) Proceedings for the collection of the death benefit provided by subsection (*c*) of said section nine must be commenced within one year from the date of death, and in any event within two hundred forty weeks from the date of the injury, and can only be maintained when it appears that death ensued within one year from the date of the injury, or that the injury causing death also caused disability which continued to the date of the death and for which a disability payment was made, or an agreement for its payment made, or proceedings for its collection commenced within the time limited for the commencement of proceedings for the recovery of the disability payment.

(*c*) The payment of compensation, or any part thereof, or agreement therefor, shall have the effect of extending the period within which proceedings for its collection may be commenced, six months from the date of the agreement or last payment of such compensation, or any part thereof, or the expiration of the period covered by any such payment; *provided, however*, that nothing contained in this section shall be construed to bar the right of any injured employee to institute proceedings for the collection of compensation within two hundred forty-five weeks after the date of the injury upon the grounds that the original injury has caused new and further disability; and the jurisdiction of the commission, in such

How extended.

New and further disability.

cases, shall be a continuing jurisdiction at all times within such period; *provided, further,* that the provisions of this section shall not apply to an employee who is totally disabled and bedridden as a result of his injury, during the continuance of such condition or until the expiration of six months thereafter.

Employee bedridden.

(*d*) If an injured employee, or in the case of his death, one or more of his dependents, shall be under twenty-one years of age or incompetent at any time when any right or privilege accrues to such person under the provisions of this act, a general guardian, appointed by the court, or a guardian *ad litem* or trustee appointed by the commission or a commissioner may, on behalf of any such person, claim and exercise any such right or privilege with the same force and effect as if no such disability existed; and no limitation of time provided by this act shall run against any such person under twenty-one years of age or incompetent unless and until such guardian or trustee is appointed. The commission shall have power to determine the fact of the minority or incompetency of any injured employee and may appoint a trustee to receive and disburse compensation payments for the benefit of such minor or incompetent and his family.

Employee under age or incompetent.

(*e*) No compensation shall be payable in case of the death or disability of an employee if his death is caused, or if and so far as his disability is caused, continued, or aggravated, by an unreasonable refusal to submit to medical treatment, or to any surgical treatment, the risk of which is, in the opinion of the commission, based upon expert medical or surgical advice, inconsiderable in view of the seriousness of the injury.

Refusal to submit to medical treatment.

(*f*) The fact that an employee has suffered a previous disability, or receives compensation therefor, shall not preclude him from compensation for a later injury, or his dependents from compensation for death resulting therefrom, but in determining compensation for the later injury, or death resulting therefrom, his average annual earnings shall be fixed at such sum as will reasonably represent his annual earning capacity at the time of the later injury.

Pre-existing disability.

(*g*) Any payment, allowance or benefit received by the injured employee during the period of his incapacity, or by his dependents in the event of his death, which by the terms of this act was not then due and payable or when there is any dispute or question concerning the right to compensation, shall not, in the absence of any

Effect of payment of indemnity.

agreement, be construed to be an admission of liability for compensation on the part of the employer, or the acceptance thereof as a waiver of any right or claim which the employee or his dependents may have against the employer, but any such payment, allowance or benefit may be taken into account by the commission in fixing the amount of the compensation to be paid.

(*h*) The running of the period of limitations prescribed by this section is an affirmative defense and operates to bar the remedy and not to extinguish the right of the employee. It may be waived, and failure to present such defense prior to the submission of the cause for decision shall be a sufficient waiver. Limitation an affirmative defense. Waiver.

SEC. 12. (*a*) The average annual earnings referred to in section nine hereof shall be fifty-two times the average weekly earnings referred to in said section; in computing such earnings the average weekly earnings shall be taken at not less than six dollars and forty-one cents nor more than thirty-two dollars and five cents, and three times the average annual earnings shall be taken at not less than one thousand dollars nor more than five thousand dollars, and between said limits said average weekly earnings shall be arrived at as follows:

(1) If the injured employee has worked in the same employment, whether for the same employer or not, during at least two hundred sixty days of the year preceding his injury, his average weekly earnings shall consist of ninety-five per cent of six times the daily earnings at the time of such injury where the employment is for six full working days a week. Where his employment is for five, five and one-half, six and one-half or seven working days a week, the average weekly earnings shall be ninety-five per cent of five, five and one-half, six and one-half or seven times the daily earnings at the time of the injury, as the case may be.

(2) If the injured employee has not so worked in such employment during at least two hundred sixty days of such preceding year, his average weekly earnings shall be based upon the daily earnings, wage or salary of an employee of the same class working at least two hundred sixty days of such preceding year in the same or a similar kind of employment in the same or a neighboring place, computed in accordance with the provisions of the preceding subdivision.

(3) If the earnings be irregular or specified to be by the week, month, or other period, then the average weekly earnings mentioned

in subdivisions (1) and (2) above shall be ninety-five per cent of the average earnings during such period of time, not exceeding one year, as may conveniently be taken to determine an average weekly rate of pay.

(4) Where the employment is for less than five days per week or is seasonal or where for any reason the foregoing methods of arriving at the average weekly earnings of the injured employee can not reasonably and fairly be applied, such average weekly earnings shall be taken at ninety-five per cent of such sum as shall reasonably represent the average weekly earning capacity of the injured employee at the time of his injury, due consideration being given to his actual earnings from all sources and employments during the year preceding his injury; *provided*, that the earnings from other occupations shall not be allowed in excess of the rate of wages paid at the time of the injury.

Overtime.

(*b*) In determining such average weekly earnings, there shall be included overtime and the market value of board, lodging, fuel, and other advantages received by the injured employee, as part of his remuneration, which can be estimated in money, but such average weekly earnings shall not include any sum which the employer may pay to the injured employee to cover any special expenses entailed on him by the nature of his employment.

Board and lodging.

Employee under age and disability permanent.

(*c*) If the injured employee is under twenty-one years of age, and his incapacity is permanent, his average weekly earnings shall be deemed, within the limits fixed, to be the weekly sum that under ordinary circumstances he would probably be able to earn after attaining the age of twenty-one years, in the occupation in which he was employed at the time of the injury or in any occupation to which he would reasonably have been promoted if he had not been injured, and if such probable earnings after attaining the age of twenty-one years can not reasonably be determined, such average weekly earnings shall be based upon three dollars a day for a six-day week.

Partial disability.

SEC. 13. The weekly loss in wages in case of temporary partial disability shall consist of the difference between the average weekly earnings of the injured employee, computed according to the provisions of section nine, and the weekly amount which the injured employee will probably be able to earn during the disability, to be determined in view of the nature and extent of the injury. In

computing such probable earnings due regard shall be given to the ability of the injured employee to compete in an open labor market. If evidence of exact loss of earnings be lacking, such weekly loss in wages may be computed from the proportionate loss of physical ability or earning power caused by the injury. Loss in wages.

SEC. 14. (*a*) The following shall be conclusively presumed to be wholly dependent for support upon a deceased employee: Conclusive presumptions.

(1) A wife upon a husband with whom she was living at the time of his death, or for whose support such husband was legally liable at the time of his death.

(2) A child or children under the age of eighteen years, or over said age, but physically or mentally incapacitated from earning, upon the parent with whom he or they are living at the time of the death of such parent or for whose maintenance such parent was legally liable at the time of death, there being no surviving dependent parent.

(*b*) In all other cases, questions of entire or partial dependency and questions as to who constitute dependents and the extent of their dependency shall be determined in accordance with the fact, as the fact may be at the time of the injury of the employee.

(*c*) No person shall be considered a dependent of any deceased employee unless in good faith a member of the family or household of such employee, or unless such person bears to such employee the relation of husband or wife, child, posthumous child, adopted child or stepchild, father or mother, father-in-law or mother-in-law, grandfather or grandmother, brother or sister, uncle or aunt, brother-in-law or sister-in-law, nephew or niece. Relationship necessary.

(*d*) 1. If there is one or more persons wholly dependent for support upon a deceased employee, such person or persons shall receive the entire death benefit, and any person or persons partially dependent shall receive no part thereof. Apportionment of death benefit.

2. If there is more than one such person wholly dependent for support upon a deceased employee, the death benefit shall be divided equally among them.

3. If there is more than one person partially dependent for support upon a deceased employee, and no person wholly dependent for support, the amount allowed as a death benefit shall be divided among the persons so partially dependent in proportion to the relative extent of their dependency.

Discretion of commission.

(*e*) The commission may, anything in this act contained to the contrary notwithstanding, set apart or reassign the death benefit to any one or more of the dependents in accordance with their respective needs and as may be just and equitable, and may order payment to a dependent subsequent in right, or not otherwise entitled, upon good cause being shown therefor. Such death benefit shall be paid to such one or more of the dependents of the deceased or to a trustee appointed by the commission or a commissioner for the benefit of the person or persons entitled, as may be determined by the commission. The person to whom the death benefit is paid for the use of the several beneficiaries shall apply the same in compliance with the findings and directions of the commission. In the event of the death of a dependent beneficiary of any deceased employee, if there be no surviving dependent, the death of such dependent shall terminate the death benefit, which shall not survive to the estate of such deceased dependent, except that payments of such death benefit accrued and payable at the time of the death of such sole remaining dependent shall be paid upon the order of the commission to the heirs of such dependent or, if none, to the heirs of the deceased employee, without administration.

Effect of death of beneficiary.

SEC. 15. No claim to recover compensation under this act shall be maintained unless within thirty days after the occurrence of the injury which is claimed to have caused the disability or death, notice in writing, stating the name and the address of the person injured, the time and the place where the injury occurred, and the nature of the injury, and signed by the person injured or some one in his behalf, or in case of his death, by a dependent or some one in his behalf, shall be served upon the employer; *provided, however,* that knowledge of such injury, obtained from any source, on the part of such employer, his managing agent, superintendent, foreman, or other person in authority, or knowledge of the assertion of a claim of injury sufficient to afford opportunity to the employer to make an investigation into the facts, shall be equivalent to such service; *and provided, further,* that the failure to give any such notice, or any defect or inaccuracy therein, shall not be a bar to recovery under this act if it is found as a fact in the proceedings for the collection of the claim that there was no intention to mislead or prejudice the employer in making his defense, and that he was not in fact so misled or prejudiced thereby.

SEC. 16. (*a*) Whenever the right to compensation under this act would exist in favor of any employee, he shall, upon the written request of his employer, submit from time to time, as may be reasonable, to examination by a practicing physician, who shall be provided and paid for by the employer, and shall likewise submit to examination from time to time by any physician selected by the commission or any member or referee thereof.

(*b*) The request or order for such examination shall fix a time and place therefor, due consideration being given to the convenience of the employee and his physical condition and ability to attend at the time and place fixed. The employee shall be entitled to have a physician provided and paid for by himself present at any examination required by his employer. So long as the employee, after such written request of the employer, shall fail or refuse to submit to such examination or shall in any way obstruct the same, his right to begin or maintain any proceeding for the collection of compensation shall be suspended; and if he shall fail or refuse to submit to examination after direction by the commission, or any member or referee thereof, or shall in any way obstruct the same, his right to the disability payments which shall accrue during the period of such failure, refusal or obstruction, shall be barred. Any physician who shall make or be present at any such examination may be required to report or testify as to the results thereof.

Effect of failure to submit.

Physician to testify.

SEC. 17. (*a*) Upon the filing with the commission by any party in interest of an application in writing stating the general nature of any dispute or controversy concerning compensation, or concerning any right or liability arising out of, or incidental thereto, jurisdiction over which is vested by this act in the commission, a time and place shall be fixed for the hearing thereof, which hearing, unless otherwise agreed to by all the parties thereto, must be held not less than ten days nor more than thirty days after the filing of such application. The person filing such application shall be known as the applicant and the adverse party shall be known as the defendant. A copy of said application, together with a notice of the time and place of hearing thereof, shall forthwith be served upon all adverse parties and may be served either as a summons in a civil action or in the same manner as any other notice that is authorized or required to be served under the provisions of this act. A notice of the time and place of hearing shall also be served upon the applicant.

Notice of hearing.

Controversy as to medical expense.

(*b*) The jurisdiction of the commission shall include any controversy relating to or arising out of the provisions of subsection (*a*) of section nine of this act, unless an express agreement shall have been made between the persons or institutions rendering such treatment and the employer or insurance carrier fixing the amount to be paid for the services.

One cause of action for all claims.

(*c*) There shall be but one cause of action for each transaction coming within the provisions of this act, and all claims brought for medical expense, disability payments, death benefits, burial expense, liens or any other matter arising out of such transaction may, in the discretion of the commission, be joined in the same proceeding at any time.

Claim against estate of deceased employer.

(*d*) The death of an employer subsequent to the sustaining of an injury by an employee shall not impair the right of such employee to proceed before the commission against the estate of such employer, and the failure of such employee or his dependents to cause the claim to be presented to the executor or administrator of the estate shall not in any way bar or suspend such right.

SEC. 18. (*a*) If any defendant desires to disclaim any interest in the subject-matter of the claim in controversy, or considers that the application is in any respect inaccurate or incomplete, or desires to bring any fact, paper or document to the attention of the commission as a defense to the claim, or otherwise, he may, within five days after the service of the application upon him, file with or mail to the commission his answer setting forth the particulars in which the application is inaccurate or incomplete, and the facts upon which he intends to rely. A copy of such answer must be forthwith served upon all adverse parties. Evidence upon matters not pleaded by answer shall be allowed only upon such terms and conditions as may be imposed by the commission or commissioner or referee holding the hearing.

Answer of defendant.

Effect of failure to answer.

(*b*) If the defendant fails to appear or answer, no default shall be taken against him, but the commission shall proceed to the hearing of the matter upon such terms and conditions as it may deem proper. Such defendant failing to appear or answer, or subsequently contending that no service was made upon him, or claiming to be aggrieved in any other manner by want of notice of the pendency of the proceedings, may apply to the commission for relief substantially in accordance with the provisions of section

four hundred seventy-three of the Code of Civil Procedure, and the commission is hereby authorized to afford such relief. No right to relief, including the claim that the findings and award of the commission or judgment entered thereon are void upon their face, shall accrue to such defendant in any court unless prior application shall have been made to the commission in accordance with this subsection, and in no event shall any application to any court be allowed except as prescribed in sections sixty-seven and sixty-eight of this act. Application to courts, when valid.

(*c*) If upon the filing of an application, such application shows upon its face that the applicant is not entitled to compensation, the commission may, upon its own motion or upon the motion of the adverse party, and after opportunity to the applicant to be heard orally or in writing, and upon good cause appearing therefor, dismiss the application prior to any hearing thereon. The pendency of such motion or notice of intended dismissal shall not, unless otherwise ordered by the commission, delay the hearing upon the application upon its merits. Dismissal of application without hearing.

(*d*) Upon the filing of an application by or on behalf of an injured employee or his dependents or any other party in interest, the commission may, in its discretion, in the cases mentioned in section four hundred twelve of the Code of Civil Procedure, direct the county clerk of any county or city and county to issue writs of attachment authorizing the sheriff to attach the property of the defendant in an amount not to exceed the greatest probable award against him in such matter, to be fixed by the commission, as security for the payment of any compensation which may thereafter be awarded. The provisions of part two, title seven, chapter four, of the Code of Civil Procedure of this state, as far as applicable to proceedings before the commission, shall govern the proceedings upon attachment, and the commission shall be substituted for the superior court in said provisions for the purpose of this act. No writ of attachment shall be issued except upon the order of the commission or a commissioner, and such order shall not be made where it appears from the application or affidavit in support thereof that the employer was, at the time of the injury to the employee, insured against liability imposed by this act in any insurance carrier licensed to do business in the State of California. If it should at any time after the levying of an attachment be made Attachment. No attachment when employee is insured.

to appear that such employer was so insured, and the requisites for dismissing said employer from the proceeding and substituting the insurance carrier as defendant under any of the methods prescribed under section thirty (*e*) of this act be established, the commission must forthwith discharge the attachment. In levying such attachment, preference must be given to the real property of the employer.

Adjournment.

SEC. 19. (*a*) No pleadings, other than the application and answer, shall be required. The hearing on the application may be adjourned from time to time and from place to place in the discretion of the commission or commissioner or referee holding such hearing. Either party shall have the right to be present at any hearing, in person or by attorney or by any other agent, and to present such testimony as shall be pertinent under the pleadings, but the commission may, with or without notice to either party, cause testimony to be taken, or inspection of the premises where the injury occurred to be made, or the timebooks and pay roll of the employer to be examined by any commissioner or referee appointed by the commission, and may from time to time direct any employee claiming compensation to be examined by a regular physician; the testimony so taken and the results of any such inspection or examination to be reported to the commission for its consideration.

Rights of litigants.

Testimony taken without notice.

Order for medical examination.

Stipulation of facts.

(*b*) The parties to a controversy may stipulate the facts relative thereto in writing and file such stipulation with the commission. The commission may thereupon make its findings and award based upon such stipulation, or may in its discretion set the matter down for hearing and take such further testimony or make such further investigations as may be necessary to enable it to completely determine the matter in controversy.

Documentary evidence.

(*c*) The commission may receive as evidence, either at or subsequent to a hearing, and use as proof of any fact in dispute, the following matters, in addition to sworn testimony presented in open hearing:

(1) Reports of attending or examining physicians.

(2) Reports of special investigators appointed by the commission or a commissioner or referee to investigate and report upon any scientific or medical question.

(3) Reports of employers containing copies of time sheets, book accounts, reports and other records, properly authenticated.

(4) Properly authenticated copies of hospital records of the case of the injured employee.

(5) All publications of the commission.

(6) All official publications of state and United States governments.

(7) Excerpts from expert testimony received by the commission upon similar issues of scientific fact in other cases and the prior decisions of the commission upon such issues; *provided, however*, that transcripts of all testimony taken without notice and copies of all reports and other matters added to the record, otherwise than during the course of an open hearing, be served upon the parties to the proceeding, and opportunity be given to produce testimony in explanation or rebuttal before decision is rendered. Expert testimony in similar cases.

(*d*) The burden of proof lies upon the party holding the affirmative of the issue. The following are affirmative defenses, and the burden of proof shall rest upon the employer to establish them: Burden of proof. Affirmative defenses.

(1) That an injured person claiming to be an employee is an independent contractor or otherwise excluded from the protection of this act, where there is proof that such injured person was at the time of his injury actually performing service for the alleged employer.

(2) Intoxication of an employee causing his injury.

(3) Wilful misconduct of an employee causing his injury.

(4) Aggravation of disability by unreasonable conduct of the employee.

(5) Prejudice to the employer by failure of the employee to give notice, as required by section fifteen.

(*e*) Where it is represented to the commission, either before or after the filing of an application, that an employee has died as a result of injuries sustained in the course of his employment, the commission may require an autopsy, and the report of the physician performing such autopsy may be received in evidence in any proceedings theretofore or thereafter brought. If at the time such autopsy is requested the body of such employee be in the custody of the coroner, the coroner must, upon the request of the commission or of any party interested, afford reasonable opportunity for the attendance of any physicians named by the commission at any autopsy ordered by him. If the coroner should not require, or shall have already performed such autopsy, he shall permit an autopsy or reexamination to be performed by physicians named by the

commission. No fee shall be charged by the coroner for any service, arrangement or permission given by him.

If the body is not in the custody of the coroner, the commission shall have authority to authorize the performance of such autopsy and the exhumation of the body for such purpose if necessary. If the dependents, or a majority thereof, of any such deceased employee, having the custody of the body of such deceased employee, shall refuse to allow the performance of such autopsy, such autopsy shall not be held; but upon the hearing of any application for compensation it shall be a disputable presumption that the injury or death was not due to causes entitling the claimants to benefits under this act.

Findings and award.

SEC. 20. (*a*) After final hearing by the commission, it shall, within thirty days, make and file (1) its findings upon all facts involved in the controversy and (2) its award which shall state its determination as to the rights of the parties.

(*b*) The commission in its award may fix and determine the total amount of compensation to be paid and specify the manner of payment, or may fix and determine the weekly disability payment to be made and order payment thereof during the continuance of such disability.

(*c*) If, in any proceeding under sections six to thirty-one, inclusive, of this act, it is proved that an injury has been suffered for which the employer would be liable to pay compensation if disability had resulted therefrom, but it is not proved that any incapacity had resulted, the commission may, instead of dismissing the application, award a nominal disability indemnity, if it appears that disability is likely to result at a future time.

Nominal indemnity.

Continuing jurisdiction.

(*d*) The commission shall have continuing jurisdiction over all its orders, decisions and awards made and entered under the provisions of sections six to thirty-one, inclusive, of this act and may at any time, upon notice, and after opportunity to be heard is given to the parties in interest, rescind, alter or amend any such order, decision or award made by it upon good cause appearing therefor, such power including the right to review, grant or regrant, diminish, increase or terminate, within the limits prescribed by this act, any compensation awarded, upon the grounds that the disability of the person in whose favor such award was made has either recurred, increased, diminished or terminated; *provided*, that no

award of compensation shall be rescinded, altered or amended after two hundred forty-five weeks from the date of the injury. Any order, decision or award rescinding, altering or amending a prior order, decision or award shall have the same effect as is herein provided for original orders, decisions or awards.

Entry of judgment.

SEC. 21. (*a*) Any party affected thereby may file a certified copy of the findings and award of the commission with the clerk of the superior court of any county, or city and county, and judgment must be entered by the clerk in conformity therewith immediately upon the filing of such findings and award.

Judgment roll.

(*b*) The certified copy of the findings and award of the commission and a copy of the judgment shall constitute the judgment roll. The pleadings, all orders of the commission, its original findings and award, and all other papers and documents filed in the cause shall remain on file in the office of the commission.

Stay of execution.

(*c*) The commission, or any member thereof, may stay the execution of any judgment entered upon an award of the commission, upon good cause appearing therefor and upon such terms and conditions as may be imposed. A certified copy of such order shall be filed with the clerk entering judgment. Where it is deemed desirable to stay the enforcement of an award and a certified copy of said findings and award has not been issued by the commission, the commission, or any member thereof, may order such certified copy to be withheld with the same force and under the same conditions as it might issue a stay of execution if said certified copy had been issued and judgment entered thereon.

Withholding certified copy.

Satisfaction of judgment.

(*d*) When a judgment is satisfied in fact, otherwise than upon an execution, the commission may, upon motion of either party or of its own motion, order the entry of satisfaction of the judgment to be made, and upon filing a certified copy of such order with the said clerk, he shall thereupon enter such satisfaction, and not otherwise.

Review by courts.

SEC. 22. The orders, findings, decisions or awards of the commission made and entered under sections six to thirty-one, inclusive, of this act may be reviewed by the courts specified in sections sixty-seven and sixty-eight hereof and within the time and in the manner therein specified and not otherwise.

Fees of court clerks.

SEC. 23. No fees shall be charged by the clerk of any court for the performance of any official service required by this act, except for the docketing of awards as judgments and for certified

copies of transcripts thereof. In all proceedings under this act before the commission, costs as between the parties shall be allowed or not in the discretion of the commission and the commission may, in its discretion, where payments of compensation have been unreasonably delayed, allow the beneficiary thereof interest thereon, at not to exceed one and one-half per cent per month, during such period of delay.

Allowance of costs and interest.

Compensation claim not assignable.

SEC. 24. (*a*) No claim for compensation shall be assignable before payment, but this provision shall not affect the survival thereof, nor shall any claim for compensation, or compensation awarded, adjudged or paid, be subject to be taken for the debts of the party entitled to such compensation, except as hereinafter provided. No compensation, whether awarded or voluntarily paid, shall be paid to any attorney at law or in fact or other agent, but shall be paid directly to the claimant entitled to the same, unless otherwise ordered by the commission. Any payment made to such attorney at law or in fact or other agent in violation of the provisions of this section shall not be credited to the employer.

Payable direct to claimant.

(*b*) The commission may fix and determine and allow as a lien against any amount to be paid as compensation:

Attorneys fee.

(1) A reasonable attorney's fee for legal services pertaining to any claim for compensation or application filed therefor and the reasonable disbursements in connection therewith.

Medical expense.

(2) The reasonable expense incurred by or on behalf of the injured employee, as defined in subsection (*a*) of section nine hereof.

Living expense.

(3) The reasonable value of the living expenses of an injured employee, not exceeding sixty-five per cent of his weekly wages between the date of his injury and the payment of the disability payment or death benefit; *provided*, that no such allowance shall be made while an injured employee is confined to a hospital for treatment.

Burial expense.

(4) The reasonable burial expenses of the deceased employee, not to exceed the sum of one hundred dollars.

Living expense of wife or minor Child.

(5) The reasonable living expenses of the wife or minor children of the injured employee, or both, subsequent to the date of the injury, where such employee has deserted or is neglecting his family, to be allowed in such proportion as the commission shall deem proper, upon application of the wife or guardian of the minor children.

(*c*) If notice in writing be given to the employer setting forth the nature and extent of any claim that may be allowed as a lien, the said claim shall be a lien against any amount thereafter to be paid as compensation, subject to the determination of the amount and approval thereof by the commission. The commission may, in its discretion, order the amount of such claim as fixed and allowed by it paid directly to the person entitled, either in a lump sum or in installments. Where it appears in any proceeding pending before the commission that a lien should be allowed if the same had been duly requested by the party entitled thereto, the commission may, in its discretion, and without any request for such lien having been made, order the payment of such claim to be made directly to the person entitled, in the same manner and with the same effect as though such lien had been regularly requested, and the award to such person shall constitute a lien against unpaid compensation due at the time of service of said award.

Notice and allowance of lien.

Request for lien not necessary.

(*d*) No claim or agreement for the legal services or disbursements mentioned in paragraph (1) of subsection (*b*) hereof, or for the expense mentioned in paragraph (2) of said subsection (*b*), in excess of a reasonable amount, shall be valid or binding in any respect, and it shall be competent for the commission to determine what constitutes such reasonable amount.

Reasonable amount of certain expenses.

(*e*) A claim for compensation for the injury or death of any employee, or any award or judgment entered thereon, shall have the same preference over the other unsecured debts of the employer or insurance carrier as is given by law to claims for wages. Such preference shall be for the entire amount of compensation to be paid, but this section shall not impair the lien of any previous award.

Preference of compensation claims.

SEC. 25. The liability of principal employers and contracting employers, general or intermediate, for compensation under this act, when other than the immediate employer of the injured employee, shall be as follows:

(*a*) When any such employer undertakes to do, or contracts with another to do, or to have done, any work, either directly or through contractors or subcontractors, then such principal employer or contracting employer shall be liable to pay to any employee injured while engaged in the execution of such work, or to his dependents in the event of his death, or to any other person, any compensation which the immediate employer is liable to pay, and

Principal employer subcontractor.

the commission shall have jurisdiction to determine all controversies arising under this section.

Recovery against both.

(*b*) The person entitled to such compensation shall have the right to recover the same directly from his immediate employer, and in addition thereto the right to enforce in his own name, in the manner provided by this act, the liability for compensation imposed upon other persons by this section, either by making such other persons parties to the original application or by filing a separate application; *provided, however,* that payment in whole or in part of such compensation by either the immediate employer or other person shall, to the extent of such payment, be a bar to recovery against the other.

Subrogation of principal.

(*c*) When any person, other than the immediate employer, shall have paid any compensation for which he would not have been liable independently of this section, he shall, unless he caused the injury, be entitled to recover the full amount so paid from the person primarily liable therefor, and jurisdiction to determine his claim shall be vested in the commission; *provided,* that such right of reimbursement against the person primarily liable for compensation shall not exist in favor of any insurance carrier insuring such other persons upon whom liability is imposed by this section, in any case where the immediate employer shall have joined with any of such other persons in taking out such policy of insurance or shall have contributed to the payment of the premium for such insurance, with the intent of securing joint protection thereby, anything in the policy to the contrary notwithstanding.

Immediate employer joining in insurance with principal.

Limitation of liability.

(*d*) The liability imposed by this section shall be subject to the following **limitations:**

(1) Such liability shall exist only in cases where the injury occurred on or in or about the premises on which the principal employer or contracting employer, whether general or intermediate, has undertaken to execute or to have executed any work, or when such premises or work are otherwise under his control or management.

(2) Such liability shall not exist in the event that the immediate employer, or other person primarily liable for the compensation shall, previous to the suffering of such injury, have taken out, and maintained in full force and effect, compensation insurance with any insurance carrier, covering his full liability for compensation.

(3) The commission may, in its discretion, order that execution against such principal employer or contracting employer be stayed until execution against the immediate employer shall be returned unsatisfied. Stay of execution against principal.

(*e*) The findings and award of this commission entered against the immediate employer shall be conclusive for or against all persons upon whom liability is imposed by this section as to the fact and extent of liability of such immediate employer.

SEC. 26. When any injury for which compensation is payable under the provisions of this act shall have been sustained under circumstances creating in some other person than the employer a legal liability to pay damages in respect thereto, the injured employee may claim compensation under the provisions of this act, but the payment or award of compensation shall not affect the claim or right of action of such injured employee against such other person, but such injured employee may proceed at law against such person to recover damages; and any employer having paid, or having become obligated to pay, compensation, may bring an action against such other person to recover damages, and evidence of any amount he has paid or become obligated to pay, as compensation, shall not be admissable; *provided*, that if either such employee or such employer shall bring such action against such third person, he shall forthwith notify the other in writing, by personal presentation or by registered mail, of such fact and of the name of the court in which suit is brought, filing proof thereof in such action, and such other may join as a party plaintiff in such action within thirty days after such notification, or must consolidate his action, if brought independently, and if such other party fails to join or proceed as party plaintiff, his right of action against such third person shall be barred. In the event that such employer and employee shall join as parties plaintiff in such action and damages are recovered, such damages shall be so apportioned that the claim of the employer shall take precedence over that of the injured employee, and if the damages shall not be sufficient or shall be only sufficient to reimburse the employer for the compensation which he has paid, or has become obligated to pay, with a reasonable allowance for an attorney's fee, to be fixed by the court, and his costs, such damages shall be assessed in his favor; but if the damages shall be more than sufficient to reimburse him, the damages shall be assessed in his favor

Subrogation of employer.

Notice of action against third party.

Apportionment of damages.

sufficient to so reimburse him, and the excess shall be assessed in favor of the injured employee. In case such employee shall prosecute such suit to judgment without the union of the employer by joinder or consolidation, the employer shall have a first lien upon any damages secured by the employee by such proceeding for the compensation the employer has paid, or has become obligated to pay, and may, by motion in open court, secure the allowance of said lien at any time before satisfaction of the judgment; and if such suit shall be prosecuted to judgment by the employer alone, such employer shall hold the damages recovered by him, over and above the compensation which he has paid, or has become obligated to pay, with a reasonable allowance for an attorney's fee, to be fixed by the court, and his costs, for the benefit of the injured employee or other person entitled, and the injured employee shall, in addition to other remedies provided by law, be entitled, by motion in open court, to have such excess awarded to him in the judgment entered by the court, at any time prior to satisfaction thereof.

Lien of employer

Damages in excess of compensation.

SEC. 27. (*a*) No contract, rule or regulation shall exempt the employer from liability for the compensation fixed by this act, but nothing in this act contained shall be construed as impairing the right of the parties interested to compromise, subject to the provisions herein contained, any liability which may be claimed to exist under this act on account of such injury or death, or as conferring upon the dependents of any injured employee any interest which such employee may not divert by such compromise or for which he, or his estate, shall, in the event of such compromise by him, be accountable to such dependents or any of them.

(*b*) The compensation herein provided shall be the measure of the responsibility which the employer has assumed for injuries or death that may occur to employees in his employment when subject to the provisions of this act, and no release of liability or compromise agreement shall be valid unless it provide for the payment of full compensation in accordance with the provisions of this act or unless it shall be approved by the commission.

Requisites of valid release.

(*c*) A copy of such release or compromise agreement signed by both parties shall forthwith be filed with the commission. When such release or compromise agreement is filed with the commission and approved by it, the commission may of its own motion, or on the application of either party, without notice, enter its award based upon such release or compromise agreement.

(*d*) Every such release or compromise agreement shall be in writing, duly executed and attested by two disinterested witnesses, and shall specify the date of the accident, the average weekly wages of the employee, determined according to section twelve hereof, the nature of the disability, whether total or partial, permanent or temporary, the amount paid or due and unpaid to the employee up to the date of the release or agreement or death, as the case may be, and, if any, the amount of the payment or benefits then or thereafter to be made, and the length of time that such payment is to continue. In case of death there shall also be stated in such release or compromise agreement the date of death, the name of the widow, if any, the names and ages of all children, if any, and the names of all other dependents, if any, and whether such dependents be total or partial, and the amount paid or to be paid as a death benefit and to whom such payment is to be made.

SEC. 28. (*a*) At the time of making its award, or at any time thereafter, the commission on its own motion, either with or without notice, or upon application of either party with due notice to the other, may, in its discretion, commute the compensation payable under this act to a lump sum, if it appears that such commutation is necessary for the protection of the person entitled thereto, or for the best interest of either party, or that it will avoid undue expense or hardship to either party, or that the employer has sold or otherwise disposed of the greater part of his assets, or is about to do so, or that the employer is not a resident of this state, and the commission may order such compensation paid forthwith or at some future time.

(*b*) The amount of the commuted payment shall be determined in accordance with the following provisions:

(1) If the injury causes temporary disability, the commission shall estimate the probable duration thereof and the probable amount of the temporary disability payments therefor, in accordance with the provisions of section nine hereof, and shall fix the lump sum payment at such amount so determined.

(2) If the injury causes permanent disability or death, the commission shall fix the total amount of the permanent disability payment or death benefit payable therefor in accordance with the provisions of said section nine, and shall estimate the present value thereof, assuming interest at the rate of six per cent per annum, disregarding the probability of the beneficiary's death in all cases except where the percentage of permanent disability is such as to entitle the beneficiary to a life pension, and then taking into consideration the probability of the beneficiary's death only in estimating the present value of such life pension.

(*c*) The commission in its discretion may order the lump sum payment, determined as hereinbefore provided, paid directly to the injured employee or his dependents, or deposited with any savings bank or trust company authorized to transact business in this state, that will agree to accept the same as a deposit bearing interest, or the commission may order the same deposited with the state compensation insurance fund. Any such amount so deposited, together with all interest derived therefrom, shall thereafter be held in trust for the injured employee, or in the event of his death, for his dependents, and the latter shall have no further recourse against the employer. Payments from said fund, when so deposited, shall be made by the trustee only in the same amounts and at the same time as fixed by order of the commission and until said fund and interest thereon shall be exhausted. In the appointment of the trustee preference shall be given, in the discretion of the commission, to the choice of the injured employee or his dependents. Upon the making of such payment, the employer shall present to the commission a proper receipt evidencing the same, executed either by the injured employee or his dependents, or by the trustee, and the commission shall thereupon issue its certificate in proper form evidencing the same, and such

Deposit of lump sum.

certificate, upon filing with the clerk of the superior court in which any judgment upon an award may have been entered, shall operate as a satisfaction of said award and shall fully discharge the employer from any further liability on account thereof.

Payment of lump sum into state compensation insurance fund.

(*d*) The commission may, where the employer is uninsured and the payments of compensation awarded are to be paid for a considerable time in the future, determine the present worth of said future payments, discounted at the rate of three per cent per annum, and order the said present worth paid into the state compensation insurance fund, which fund shall thereafter pay to the beneficiaries of said award the future payments as they become due.

SEC. 29. (*a*) Every employer as defined in section seven hereof, except the state and all political subdivisions or institutions thereof, shall secure the payment of compensation in one or more of the following ways:

1. By insuring and keeping insured against liability to pay compensation in one or more insurance carriers duly authorized to write compensation insurance in this state.

2. By securing from the commission a certificate of consent to self-insure, which may be given upon his furnishing proof satisfactory to the commission of ability to carry his own insurance and pay any compensation that may become due to his employees. The commission may, in its discretion, require such employer to deposit with the state treasurer a bond or securities approved by the commission, in an amount to be determined by the commission. Such certificate may be revoked at any time for good cause shown.

Effect of failure to secure.

(*b*) If any employer shall fail so to secure the payment of compensation, any injured employee or his dependents may proceed against such employer by filing an application for compensation with the commission, and, in addition thereto, such injured employee or his dependents may bring an action at law against such employer for damages, the same as if this act did not apply, and shall be entitled in such action to the right to attach the property of the employer, at any time upon or after the institution of such action, in an amount to be fixed by the court, to secure the payment of any judgment which may ultimately be obtained. Such judgment

shall include a reasonable attorney's fee to be fixed by the court. The provisions of the Code of Civil Procedure, except in so far as they may be inconsistent with this act, shall govern the issuance of and proceedings upon such attachment; *provided*, that if as a result of such action for damages a judgment is obtained against such employer in excess of the compensation awarded under this act, the compensation awarded by the commission, if paid, or if security approved by the court be given for its payment, shall be credited upon such judgment; *provided, further*, that in such action it shall be presumed that the injury to the employee was a direct result and grew out of the negligence of the employer, and the burden of proof shall rest upon the employer to rebut the presumption of negligence. In such proceeding it shall not be a defense to the employer that the employee may have been guilty of contributory negligence, or assumed the risk of the hazard complained of, or that the injury was caused by the negligence of a fellow servant. No contract, rule or regulation shall be allowed to restore to the employer any of the foregoing defenses.

SEC. 30. (*a*) Nothing in this act shall affect the organization of any mutual or other insurance company, or any existing contract for insurance, or the right of the employer to insure in mutual or other companies, in whole or in part, against liability for the compensation provided by this act; or to provide by mutual or other insurance, or by arrangement with his employees, or otherwise, for the payment to such employees, their families, dependents or representatives, of sick, accident or death benefits, in addition to the compensation provided for by this act; or the right of the employer to waive the waiting period provided for herein by insurance coverage; *provided, however*, that it shall be unlawful for any employer to exact or receive from any employee any contribution, or make or take any deduction from the earnings of any employee, either directly, or indirectly, to cover the whole or any part of the cost of compensation under this act, and it shall be a misdemeanor so to do.

No contribution by employee.

(*b*) Liability for compensation shall not be reduced or affected by any insurance, contribution, or other benefit whatsoever due to or received by the person entitled to such

compensation, except as otherwise provided by this act, and the person so entitled shall, irrespective of any insurance or other contract, except as otherwise provided in this act, have the right to recover such compensation directly from the employer, and in addition thereto, the right to enforce in his own name, in the manner provided in this act, either by making the insurance carrier a party to the original application or by filing a separate application, the liability of any insurance carrier, which may, in whole or in part, have insured against liability for such compensation; *provided, however*, that payment in whole or in part of such compensation by either the employer or the insurance company shall, to the extent thereof, be a bar to recovery against the other of the amount so paid; *and provided, further*, that as between the employer and the insurance company, payment by either directly to the employee, or to the person entitled to compensation, shall be subject to the conditions of the insurance contract between them. Employee may enforce insurance contract.

(*c*) Every contract insuring against liability for compensation, or insurance policy evidencing the same, must contain a clause to the effect that the insurance carrier shall be directly and primarily liable to the employee and, in the event of his death, to his dependents, to pay the compensation, if any, for which the employer is liable; that, as between the employee and the insurance carrier, the notice to or knowledge of the occurrence of the injury on the part of the employer shall be deemed notice or knowledge, as the case may be, on the part of the insurance carrier; that jurisdiction of the employer shall, for the purpose of this act, be jurisdiction of the insurance carrier; and that the insurance carrier shall in all things be bound by and subject to the orders, findings, decisions or awards rendered against the employer under the provisions of this act. Requisites of policy. Notice of injury. Jurisdiction.

(*d*) Such policy must also provide that the employee shall have a first lien upon any amount which shall become owing on account of such policy to the employer from the insurance carrier, and that in case of the legal incapacity or inability of the employer to receive the said amount and pay it over to the employee or his dependents, the said insurance Employee's first lien.

carrier may and shall pay the same directly to the said employee or his dependents, thereby discharging, to the extent of such payment, the obligations of the employer to the employee; and such policy shall not contain any provisions relieving the insurance carrier from payment when the employer becomes insolvent or is discharged in bankruptcy, or otherwise, during the period that the policy is in operation or the compensation remains owing. Every contract insuring against liability for compensation, provided by this act, or insurance policy evidencing the same shall be conclusively presumed to contain all of the provisions required by this act.

Policy presumed to contain required provisions.

(e) (1) If the employer shall be insured against liability for compensation with any insurance carrier, and if after the suffering of any injury such insurance carrier shall serve or cause to be served upon any person claiming compensation against such employer a notice that it has assumed and agreed to pay the compensation, if any, for which the employer is liable, and shall file a copy of such notice with the commission, such employer shall thereupon be relieved from liability for compensation to such claimant and the insurance carrier shall, without notice, be substituted in place of the employer in any proceeding theretofore or thereafter instituted by such person to recover such compensation, and the employer shall be dismissed therefrom. Such proceedings shall not abate on account of such substitution but shall be continued against such insurance carrier. If at the time of the suffering of an injury for which compensation is claimed, or may be claimed, the employer shall be insured against liability for the full amount of compensation payable, or that may become payable, the employer may serve or cause to be served upon any person claiming compensation on account of the suffering of such injury and upon the insurance carrier a notice that the insurance carrier has in its policy contract or otherwise, assumed and agreed to pay the compensation, if any, for which the employer is liable, and may file a copy of such notice with the commission. If it shall thereafter appear to the satisfaction of the commission that the insurance carrier has,

Notice by insurance carrier.

Notice by employer.

through the issuance of its contract of insurance or otherwise, assumed such liability for compensation, such employer shall thereupon be relieved from liability for compensation to such claimant and the insurance carrier shall, after notice, be substituted in place of the employer in any proceeding theretofore or thereafter instituted by such person to recover such compensation, and the employer shall be dismissed therefrom. Such proceeding shall not abate on account of such substitution, but shall be continued against such insurance carrier.

Substitution without notice.

(2) The commission may, with or without the filing of the notice required by the preceding paragraph, enter its order relieving the employer from liability where it appears from the pleadings, stipulations or proof that an insurance carrier joined as party to the proceeding is liable for the full compensation which the employer in such proceeding is liable to pay.

Subrogation of insurance carrier.

(*f*) Where any employer is insured against liability for compensation with any insurance carrier and such insurance carrier shall have assumed the liability of the employer therefor in the manner provided by this section, or shall have paid any compensation for which the employer is liable, or furnished or provided any medical services required by this act, such insurance carrier shall be subrogated to all the rights and duties of such employer and may enforce any such rights of its own name.

State fund may insure.

(*g*) The state compensation insurance fund may insure against any liability fixed under this act to the same extent as any insurance carrier.

SEC. 31. (*a*) If any insurance policy shall be issued covering liability for compensation, which policy shall contain any limitation as to the compensation payable, such limitation shall be printed in the body of such policy in bold-face type and in addition thereto the words "limited compensation policy" shall be printed on the top of the policy in bold-face type not less than eighteen point in size. Failure to observe the foregoing requirement shall render such policy unlimited.

No insurance against additional compensation.

(*b*) No insurance carrier shall insure against the liability of the employer for the additional compensation recoverable under the provisions contained in section six (*b*) hereof.

SEC. 32. Nothing contained in this act shall be taken or construed to limit, interfere with, disturb, or render ineffective in any degree, the creation, existence, organization, control, management, contracts, rights, powers, duties and liabilities of the state compensation insurance fund, but all such matters and things are hereby expressly confirmed, saved and continued.

(Act 1913; amended Act 1915, chap. 607.)

Creation and establishment.

SEC. 36. There is hereby created and established a fund to be known as the "state compensation insurance fund," to be administered by the industrial accident commission of the state, without liability on the part of the state beyond the amount of said fund, for the purpose of insuring employers against liability for compensation under this act and against the expense of defending any suit for damages under the optional provisions of section twelve hereof (subdivision *b*), and insuring to employees and other persons the compensation fixed by this act for employees and their dependents.

The fund.

SEC. 37 (*a*) The state compensation insurance fund shall be a revolving fund and shall consist of such specific appropriations as the legislature may from time to time make or set aside for the use of such fund, all premiums received and paid into the said fund for compensation insurance issued, all property and securities acquired by and through the use of moneys belonging to said fund and all interest earned upon moneys belonging to said fund and deposited or invested, as herein provided.

(*b*) Said fund shall be applicable to the payment of losses sustained on account of insurance and to the payment of the salaries and other expenses to be charged against said fund in accordance with the provisions contained in this act.

Competitive and self-supporting.

(*c*) Said fund shall, after a reasonable time during which it may establish a business, be fairly competitive with other insurance carriers, and it is the intent of the legislature that said fund shall ultimately become neither more nor less than self-supporting. In order that the state compensation insur-

ance fund shall ultimately become neither more nor less than self-supporting, the actual loss experience and expense of the fund shall be ascertained on or about the first of January in each year for the year preceding, and should it then be shown that there exists an excess of assets over liabilities, such liabilities to include the necessary reserves, and a reasonable surplus for the catastrophe hazard, then, in the discretion of the commission, a cash dividend shall be declared to, or a credit allowed on the renewal premium of each employer who has been insured with the fund, such cash dividend or credit to be such an amount to which, as in the discretion of the commission, such employer may be entitled as the employer's proportion of divisible surplus. Distribution of excess assets.

(Act of 1913.)

SEC. 38. (*a*) The commission is hereby vested with full power, authority and jurisdiction over the state compensation insurance fund and may do and perform any and all things whether herein specifically designated, or in addition thereto, which are necessary or convenient in the exercise of any power, authority or jurisdiction over said fund in the administration thereof, or in connection with the insurance business to be carried on by it under the provisions of this act, as fully and completely as the governing body of a private insurance carrier might or could do. Authority of commission over fund.

(*b*) The commission shall have full power and authority, and it shall be its duty, to fix and determine the rates to be charged by the state compensation insurance fund for compensation insurance, and to manage and conduct all business and affairs in relation thereto, all of which business and affairs shall be conducted in the name of the state compensation insurance fund, and in that name, without any other name or title, the commission may:

(1) Sue and be sued in all the courts of the state in all actions arising out of any act, deed, matter or thing made, omitted, entered into, done, or suffered in connection with the state compensation insurance fund, the administration, management or conduct of the business or affairs relating thereto.

(2) Make and enter into contracts of insurance as herein provided, and such other contracts or obligations relating to

the state compensation insurance fund as are authorized or permitted under the provisions of this act.

(3) Invest and reinvest the moneys belonging to said fund as hereinafter provided.

(4) Conduct all business and affairs, relating to the state compensation insurance fund, whether herein specifically designated or in addition thereto.

Powers delegated to fund officers.

(*c*) The commission may delegate to the manager of the state compensation insurance fund, or to any other officer, under such rules and regulations and subject to such conditions as it may from time to time prescribe, any of the powers, functions or duties, conferred or imposed on the commission under the provisions of this act in connection with the state compensation insurance fund, the administration, management and conduct of the business and affairs relating thereto, and the officer or officers to whom such delegation is made may exercise the powers and functions and perform the duties delegated with the same force and effect as the commission, but subject to its approval.

No personal liability for official acts.

(*d*) The commission shall not, nor shall any commissioner, officer or employee thereof, be personally liable in his private capacity for or on account of any act performed or contract or other obligation entered into or undertaken in an official capacity, in good faith and without intent to defraud, in connection with the administration, management or conduct of the state compensation insurance fund, its business or other affairs relating thereto.

Powers of manager.

SEC. 39. In conducting the business and affairs of the state compensation insurance fund, the manager of the said fund or other officer to whom such power and authority may be delegated by the commission, as provided by subsection (*c*) of section thirty-eight thereof, shall have full power and authority:

(1) To enter into contracts of insurance, insuring employers against liability for compensation and insuring to employees and other persons the compensation fixed by this act.

(2) To sell annuities covering compensation benefits.

(3) To decline to insure any risk in which the minimum requirements of the commission with regard to construction,

equipment and operation are not observed, or which is beyond the safe carrying of the state compensation insurance fund, but shall not have power or authority, except as otherwise provided in this subdivision, to refuse to insure any compensation risk tendered with the premium therefor.

(4) To reinsure any risk or any part thereof.

(5) To inspect and audit, or cause to be inspected and audited the pay rolls of employers applying for insurance against liability for compensation.

(6) To make rules and regulations for the settlement of claims against said fund and to determine to whom and through whom the payments of compensation are to be made.

(7) To contract with physicians, surgeons and hospitals for medical and surgical treatment and the care and nursing of injured persons entitled to benefits from said fund.

Rates, how fixed.

SEC. 40. (*a*) It shall be the duty of the commission to fix and determine the rates to be charged by the state compensation insurance fund for compensation insurance coverage as herein provided, and such rates shall be fixed with due regard to the physical hazards of each industry, occupation or employment and, within each class, so far as practicable, in accordance with the elements of bodily risk or safety or other hazard of the plant or premises or work of each insured and the manner in which the same is conducted, together with a reasonable regard for the accident experience and history of each such insured, and the means and methods of caring for injured persons, but such rates shall take no account of the extent to which the employees in any particular establishment have or have not persons dependent upon them for support.

Amount of rates.

(*b*) The rates so made shall be that percentage of the pay roll of any employer which, in the long run and on the average, shall produce a sufficient sum, when invested at three and one-half per cent interest:

(1) To carry all claims to maturity; that is to say the rates shall be based upon the "reserve" and not upon the "assessment" plan;

(2) To meet the reasonable expenses of conducting the business of such insurance;

(3) To produce a reasonable surplus to cover the catastrophe hazard.

Forms of policy.

SEC. 41. The insurance contracts entered into between the state compensation insurance fund and persons insuring therewith may be either limited or unlimited and issued for one year or, in the form of stamps or tickets or otherwise, for one month or any number of months less than one year, or for one day or any number of days less than one month, or during the performance of any particular work, job or contract; *provided*, that the rates charged shall be proportionately greater for a shorter than for a longer period and that a minimum premium charge shall be fixed in accordance with a reasonable rate for insuring one person for one day. Nothing in this act shall be construed to prevent any person applying for compensation insurance from being covered temporarily until the application is finally acted upon, or to prevent the insured from surrendering any policy at any time and having returned to him the difference between the premium paid and the premium at the customary short term for the shorter period which such policy has already run. The state compensation insurance fund may at any time cancel any policy, after due notice, upon a pro rata basis of premium repayment.

Short rates.

Insurance of employers.

SEC. 42. The state compensation insurance fund may issue policies, including with their employees, employers who perform labor incidental to their occupations, and including also members of the families of such employers engaged in the same occupation, such policies insuring to such employers and working members of their families the same compensations provided for their employees, and at the same rates; *provided*, that the estimations of their wage values, respectively, shall be reasonable and separately stated in and added to the valuation of their pay rolls upon which their premium is computed. Such policies may likewise be sold to self-employing persons and to casual employees, who, for the purpose of such insurance, shall be deemed to be employees within the meaning of sections twelve to thirty-five, inclusive, of this act.

Self-employers. Casual employees.

Custodian of funds.

SEC. 43. The treasurer of the state shall be custodian of all moneys and securities belonging to the state compensation insurance fund, except as otherwise provided in this act, and shall be liable on his official bond for the safekeeping thereof. All moneys belonging to said fund collected or received by the commission, or the manager of the state compensation insurance fund, under and by virtue of the provisions of this act, shall be delivered to the treasurer of the state or may be deposited to his credit in such bank or banks throughout the state as he may, from time to time, designate, and such moneys when so delivered or deposited shall be credited by the treasurer to the said fund and no moneys received or collected on account of such fund shall be expended or paid out of such fund without first passing into the state treasury and being drawn therefrom as provided in this act. In like manner there shall be delivered to the treasurer all securities belonging to said fund which shall be held by him until otherwise disposed of as provided in this act.

Monthly estimate

SEC. 44. (*a*) The commission shall submit each month to the state board of control an estimate of the amount necessary to meet the current disbursements from the state compensation insurance fund during each succeeding calendar month and, when such estimate shall be approved by the state board of control, the controller is directed to draw his warrant on said fund in favor of said commission for such amount, and the treasurer is authorized and directed to pay the same.

Accounting.

(*b*) At the end of each calendar month the commission shall account to the state board of control and the state controller for all moneys so received, furnishing proper vouchers therefor.

Valuation of assets.

(*c*) During the months of January and July of each year the state board of control or the commission shall cause a valuation to be made of the properties and securities which have been acquired and which are held for said fund, and shall report the results of the same to the state controller, whose duty it shall be to keep a special ledger account showing all of the assets pertaining to the state compensation insurance fund. In the controller's general ledger this fund

account may be carried merely as a cash account, like other accounts of funds in the state treasury, and therein only the actual cash coming into the state compensation insurance fund shall be credited to such fund.

Investment of excess funds.

SEC. 45. (*a*) The commission shall cause all moneys in the state compensation insurance fund, in excess of current requirements, to be invested and reinvested, from time to time, in the securities now or hereafter authorized by law for the investment of funds of savings banks.

Estimate for investment.

(*b*) The commission shall, from time to time, submit to the state board of control an estimate of the amount required by it for investment, which estimate shall be accompanied by a full description of the kind and character of the investments to be made and, when such estimate shall be approved by the state board of control, the controller is directed to draw his warrant on the state compensation insurance fund in favor of the commission for such amount and the treasurer is authorized and directed to pay the same.

Accounting.

(*c*) At the end of each calendar month the commission shall account to the said board of control and the state controller for all moneys so received, furnishing proper vouchers therefor.

Deposit of surplus.

(*d*) All moneys in said fund, in excess of current requirements and not otherwise invested, may be deposited by the state treasurer from time to time in the banks authorized by law to receive deposits of public moneys under the same rules and regulations that govern the deposit of other public funds and the interest accruing thereon shall be credited to the state compensation insurance fund.

(Act of 1913 as amended; Act of 1915, chap. 607.)

Public corporations to insure in fund.

SEC. 46. Each county, city and county, city, school district or other public corporation or quasi-public corporation within the state, not including, however, any public utility corporation, may insure against its liability for compensation with the state compensation insurance fund and not with any other insurance carrier unless such fund shall refuse to accept the risk when the application for insurance is made, and the premium therefor shall be a proper charge against the general fund of each such political subdivision of the state.

Certain public officers as agents.

SEC. 47. When the premium rates for insurance in the state compensation insurance fund shall have been established the commission shall furnish schedules of rates and copies of the forms of policy to the commissioner of labor, to the clerk and to the treasurer of every county, city and county, and city in the state, and it shall be the duty of every public officer to whom the foregoing may be furnished to fill out and transmit to the manager of the state compensation insurance fund applications for compensation insurance in such fund and to receive and transmit to said manager all premiums paid on account of any policy issued or applied for, and for this service such officials may be allowed such commission or other compensation as the commission may from time to time direct.

(Act of 1913.)

Quarterly reports.

SEC. 48. The commission shall each quarter make to the governor of the state, reports of the business done by the state compensation insurance fund during the previous quarter, and a statement of the fund's resources and liabilities, and it shall be the duty of the state board of control to audit such reports and to cause an abstract thereof to be published one or more times in at least two newspapers of general circulation in the state. The commission shall likewise make to the state insurance commissioner all reports required by law to be made by other insurance carriers.

Misrepresentation of pay roll.

SEC. 49. Any employer who shall wilfully misrepresent the amount of the pay roll upon which his premium under this act is to be based shall be liable to the state in ten times the amount of the difference in premium paid and the amount the employer should have paid had his pay roll been correctly computed, and the liability to the state under this section shall be enforced in a civil action in the name of the state compensation insurance fund and any amount so collected shall become a part of said fund.

Misrepresentation of fact.

SEC. 50. Any person who wilfully misrepresents any fact in order to obtain insurance at less than the proper rate for such insurance, or in order to obtain any payments out of such fund, shall be guilty of a misdemeanor.

(Act of 1917.)

Definitions.

SEC. 33. The following terms, as used in sections thirty-three to fifty-four, inclusive, of this act, shall, unless a different meaning is plainly required by the context, be construed as follows:

"Place of employment."

(1) The phrase "place of employment" shall mean and include every place, whether indoors or out or underground, or elsewhere, and the premises appurtenant thereto, where, either temporarily or permanently, any industry, trade, work or business is carried on, or where any process or operation directly or indirectly related to any industry, trade, work or business, is carried on, including all construction work, and where any person is directly or indirectly employed by another for direct or indirect gain or profit, but shall not include any place where persons are employed solely in household domestic service, or any place of employment, concerning the safety of which jurisdiction may have been vested by law heretofore or hereafter in any other commission or public authority.

"Employment."

(2) The term "employment" shall mean and include any trade, work, business, occupation or process of manufacture, or any method of carrying on such trade, work, business, occupation or process of manufacture, including construction work, in which any person may be engaged, except where persons are employed solely in household domestic service.

"Employer."

(3) The term "employer" shall mean and include every person, firm, voluntary association, corporation, officer, agent, manager, representative or other person having control or custody of any employment, place of employment or of any employee.

"Employee."

(4) The term "employee" shall mean and include every person who may be required or directed by any employer, in consideration of direct or indirect gain or profit, to engage in any employment, or to go to work or be at any time in any place of employment.

"Order."

(5) The term "order" shall mean and include any decision, rule, regulation, direction, requirement or standard of the commission or any other determination arrived at or decision made by such commission under the safety provisions of this act.

(6) The term "general order" shall mean and include such order, made under the safety provisions of this act, as applies generally throughout the state to all persons, employments or places of employment, or all persons, employments or places of employment of a class under the jurisdiction of the commission. All other orders of the commission shall be considered special orders. "General order."

(7) The term "local order" shall mean and include any ordinance, order, rule or determination of any board of supervisors, city council, board of trustees or other governing body of any county, city and county, city, or any school district or other public corporation, or an order or direction of any other public official or board or department upon any matter over which the industrial accident commission has jurisdiction. "Local order."

(8) The terms "safe" and "safety" as applied to an employment or a place of employment shall mean such freedom from danger to the life or safety of employees as the nature of the employment will reasonably permit. "Safe." "Safety."

(9) The terms "safety device" and "safeguard" shall be given a broad interpretation so as to include any practicable method of mitigating or preventing a specific danger. "Safety device." "Safeguard."

SEC. 34. Every employer shall furnish employment which shall be safe for the employees therein and shall furnish a place of employment which shall be safe for employees therein, and shall furnish and use such safety devices and safeguards, and shall adopt and use such practices, means, methods, operations and processes as are reasonably adequate to render such employment and place of employment safe, and shall do every other thing reasonably necessary to protect the life and safety of such employees. Employer to furnish safe employment.

SEC. 35. No employer shall require, permit or suffer any employee to go or be in any employment or place of employment which is not safe, and no such employer shall fail to furnish, provide and use safety devices and safeguards or fail to adopt and use methods and processes reasonably adequate to render such employment and place of employment safe, and no such employer shall fail or neglect to do every other thing reasonably necessary to protect the life and safety of

such employees, and no such employer shall occupy or maintain any place of employment that is not safe.

SEC. 36. No employer, owner or lessee of any real property in this state shall construct or cause to be constructed any place of employment that is not safe.

Safety device not to be removed.

SEC. 37. No employee shall remove, displace, damage, destroy or carry off any safety device or safeguard furnished and provided for use in any employment or place of employment, or interfere in any way with the use thereof by any other person, or interfere with the use of any method or process adopted for the protection of any employee, including himself, in such employment, or place of employment, or fail or neglect to do every other thing reasonably necessary to protect the life and safety of such employees.

Jurisdiction of commission over places of employment.

SEC. 38. The commission is vested with full power and jurisdiction over, and shall have such supervision of, every employment and place of employment in this state as may be necessary adequately to enforce and administer all laws and all lawful orders requiring such employment and place of employment to be safe, and requiring the protection of the life and safety of every employee in such employment or place of employment.

Powers of commission.

SEC. 39. The commission shall have power, after a hearing had upon its own motion or upon complaint, by general or special orders, rules or regulations, or otherwise:

(1) To declare and prescribe what safety devices, safeguards or other means or methods of protection are well adapted to render the employees of every employment and place of employment safe as required by law or lawful order.

(2) To fix such reasonable standards and to prescribe, modify and enforce such reasonable orders for the adoption, installation, use, maintenance and operation of safety devices, safeguards and other means or methods of protection, to be as nearly uniform as possible, as may be necessary to carry out all laws and lawful orders relative to the protection of the life and safety of employees in employments and places of employment.

(3) To fix and order such reasonable standards for the construction, repair and maintenance of places of employment as shall render them safe.

(4) To require the performance of any other act which the protection of the life and safety of employees in employments and places of employment may reasonably demand.

(5) To declare and prescribe the general form of industrial injury reports, the injuries to be reported and the information to be furnished in connection therewith, and the time within which such reports shall be filed. Nothing in this act contained shall be construed to prevent the commission from requiring supplemental injury reports.

Notice of hearings.

SEC. 40. Upon the fixing of a time and place for the holding of a hearing for the purpose of considering and issuing a general safety order or orders as authorized by section thirty-nine hereof, the commission shall cause a notice of such hearing to be published in one or more daily newspapers of general circulation published and circulated in the city and county of San Francisco, and also in one or more daily newspapers of general circulation published and circulated in the county of Los Angeles, such newspapers to be designated by the commission for that purpose. No defect or inaccuracy in such notice or in the publication thereof shall invalidate any general order issued by the commission after hearing had.

Order as to unsafe employment.

SEC. 41. Whenever the commission, after a hearing had upon its own motion or upon complaint, shall find that any employment or place of employment is not safe or that the practices or means or methods or operations or processes employed or used in connection therewith are unsafe, or do not afford adequate protection to the life and safety of employees in such employment or place of employment, the commission shall make and enter and serve such order relative thereto as may be necessary to render such employment or place of employment safe and protect the life and safety of employees in such employment and place of employment and may in said order direct that such additions, repairs, improvements or changes be made and such safety devices and safeguards be furnished, provided and used, as are reasonably required to render such employment or place of employment safe, in the manner and within the time specified in said order.

Extension of time.

SEC. 42. The commission may, upon application of any employer, or other person affected thereby, grant such time as may reasonably be necessary for compliance with any order, and any person affected by such order may petition the commission for an extension of time, which the commission shall grant if it finds such an extension of time necessary.

Summary investigation.

SEC. 43. Whenever the commission shall learn or have reason to believe that any employment or place of employment is not safe or is injurious to the welfare of any employee it may, of its own motion, or upon complaint, summarily investigate the same, with or without notice or hearings, and after a hearing upon such notice as it may prescribe, the commission may enter and serve such order as may be necessary relative thereto, anything in this act to the contrary notwithstanding.

Obedience to safety orders.

SEC. 44. Every employer, employee and other person shall obey and comply with each and every requirement of every order, decision, direction, rule or regulation made or prescribed by the commission in connection with the matters herein specified, or in any way relating to or affecting safety of employments or places of employment, or to protect the life and safety of employees in such employments or places of employment, and shall do everything necessary or proper in order to secure compliance with and observance of every such order, decision, direction, rule or regulation.

Review by courts.

SEC. 45. The orders of the commission, general or special, its rules or regulations, findings and decisions, made and entered under the safety provisions of this act, may be reviewed by the courts specified in sections sixty-seven and sixty-eight of this act and within the time and in the manner therein specified and not otherwise.

Effect of orders on jurisdiction of public corporations.

SEC. 46. Nothing contained in this act shall be construed to deprive the board of supervisors of any county, or city and county, the board of trustees of any city, or any other public corporation or board or department, of any power or jurisdiction over or relative to any place of employment; *provided*, that whenever the commission shall, by order, fix a standard of safety for employments or places of employment, such order shall, upon the filing by the commission of a

copy thereof with the clerk of the county, city and county, or city to which it may apply, establish a minimum requirement concerning the matters covered by such order and shall be construed in connection with any local order relative to the same matter and to amend or modify any requirement in such local order not up to the standard of the order of the commission.

SEC. 47. The commission shall have further power and authority:

(1) To establish and maintain museums of safety and hygiene in which shall be exhibited safety devices, safeguards and other means and methods for the protection of the life and safety of employees, and to publish and distribute bulletins on any phase of this general subject. Safety museums.

(2) To cause lectures to be delivered, illustrated by stereoptican or other views, diagrams or pictures, for the information of employers and their employees and the general public in regard to the causes and prevention of industrial accidents, occupational diseases and related subjects. Lectures.

(3) To appoint advisers who shall, without compensation, assist the commission in establishing standards of safety and the commission may adopt and incorporate in its general orders such safety recommendations as it may receive from such advisers. Advisers.

SEC. 48. Every order of the commission, general or special, its rules and regulations, findings and decisions, made and entered under the safety provisions of this act shall be admissible as evidence in any prosecution for the violation of any of the said provisions and shall, in every such prosecution, be conclusively presumed to be reasonable and lawful and to fix a reasonable and proper standard and requirement of safety, unless, prior to the institution of the prosecution for such violation or violations, proceedings for a rehearing thereon or a review thereof shall have been instituted as provided in sections sixty-four to sixty-eight, inclusive, of this act and not then finally determined. Safety orders as evidence.

SEC. 49. Every employer, employee or other person who, either individually or acting as an officer, agent or employee of a corporation or other person, violates any safety provision contained in sections thirty-four, thirty-five, thirty-six or Penalty for violation.

thirty-seven of this act, or any part of any such provision, or who shall fail or refuse to comply with any such provision or any part thereof, or who, directly or indirectly, knowingly induces another so to do is guilty of a misdemeanor. In any prosecution under this section it shall be deemed prima facie evidence of a violation of any such safety provision, that the accused has failed or refused to comply with any order, rule, regulation or requirement of the commission relative thereto and the burden of proof shall thereupon rest upon the accused to show that he has complied with such safety provision.

SEC. 50. Every violation of the provisions contained in sections thirty-four, thirty-five, thirty-six or thirty-seven of this act, or any part or portion thereof, by any person or corporation is a separate and distinct offense, and, in the case of a continuing violation thereof, each day's continuance thereof shall constitute a separate and distinct offense.

SEC. 51. All fines imposed and collected under prosecutions for violations of the provisions of sections thirty to fifty-four of this act shall be paid into the state treasury to the credit of the "accident prevention fund," which fund is hereby created. In addition to other sources of income of said accident prevention fund, the state compensation insurance fund shall pay into the said accident prevention fund, on or before the first Monday in July, 1918, and annually thereafter, the sum of two per cent upon the amount of the gross premiums received by it upon its business done in this state during the preceding calendar year, less return premiums and reinsurance in companies or associations authorized to do business in this state, which payment is intended to be the equivalent of the taxes imposed upon private insurance companies by the laws of this state relating to revenue and taxation. The state compensation insurance fund shall also pay into the said accident prevention fund interest from September 1, 1917, at the rate of four per cent per annum, payable quarterly, upon the sum of one hundred thousand dollars heretofore advanced by the state to said state compensation insurance fund as long as the said fund shall retain the said sum of one hundred thousand dollars. The commission is authorized to draw from said

accident prevention fund toward the support of its department of safety. The commission shall submit from time to time to the state board of control an estimate of the amount it desires to withdraw from the accident prevention fund, and when such estimate shall be approved by the state board of control, the controller is directed to draw his warrant on said fund in favor of said commission for such amount, and the treasurer is authorized and directed to pay the same. The commission shall account to the state board of control and to the state controller for all moneys so received, furnishing proper vouchers therefor. The said accident prevention fund shall be a revolving fund.

Unlawful to divulge information.

SEC. 52. It shall be unlawful for any member of the commission, or for any officer or employee of the commission, to divulge to any person not connected with the administration of this act any confidential information obtained from any person, concerning the failure of any other person to keep any place of employment safe, or concerning the violation of any order, rule or regulation issued by the commission. Any member of the commission or any officer or employee of the commission divulging such confidential information shall be guilty of a misdemeanor.

Report of injury by employer, physician and insurance carrier.

SEC. 53. (*a*) Every employer of labor, without any exceptions, and every insurance carrier, and every physician or surgeon who attends any injured employee, is hereby required to file with the commission, under such rules and regulations as the commission may from time to time make, a full and complete report of every injury to an employee arising out of or in the course or his employment and resulting in loss of life or injury to such person. Such reports shall be furnished to the commission in such form and such detail as the commission shall from time to time prescribe, and shall make specific answers to all questions required by the commission under its rules and regulations. It shall be unlawful for any person, firm, corporation, agent or officer of a firm or corporation, to fail or refuse to comply with any of the provisions of this section, and any such person, firm, corporation, agent or officer of a firm or corporation, who fails or refuses to comply with the provisions of this section shall be guilty of a misdemeanor for each and every offense

and upon conviction thereof shall be punishable by a fine of not less than ten dollars nor more than one hundred dollars. Any such employer or insurance carrier who shall furnish such report shall be exempt from furnishing any similar report or reports authorized or required under the laws of this state.

Blanks to be filled.

(*b*) Every employer or insurance carrier receiving from the commission any blanks with directions to fill out the same shall cause the same to be properly filled out so as to answer fully and correctly each question propounded therein; in case he is unable to answer any such questions a good and sufficient reason shall be given for such failure.

Information not to be public.

(*c*) No information furnished to the commission by an employer or an insurance carrier shall be open to public inspection or made public except on order of the commission, or by a commissioner or referee in the course of a proceeding. Any officer or employee of the commission who, in violation of the provisions of this subsection, divulges any such information shall be guilty of a misdemeanor.

Investigation of causes of injury.

SEC. 54. (*a*) The commission shall investigate the cause of all industrial injuries occurring within the state in any employment or place of employment, or directly or indirectly arising from or connected with the maintenance or operation of such employment or place of employment, resulting in disability or death and requiring, in the judgment of the commission, such investigation; and the commission shall have the power to make such orders or recommendations with respect to such injuries as may be just and reasonable; *provided*, that neither the order nor the recommendation of the commission shall be admitted as evidence in any action for damages or any proceeding to recover compensation, based on or arising out of such injury or death.

(*b*) For the purpose of making any investigation which the commission is authorized to make under the provisions of this section, or for the purpose of collecting statistics or examining the provision made for the safety of employees, any member of the commission, inspector, referee or other person designated by the commission for that purpose, may enter any place of employment.

(*c*) Any employer, insurance carrier, responsible agent or employee of such employer or insurance carrier, or any other person who shall violate or omit to comply with any of the provisions of this section, or who shall in any way obstruct or hamper the commission, any commissioner or other person conducting any investigation authorized to be undertaken or made by the commission, shall be guilty of a misdemeanor. Obstructing investigation.

SEC. 55. (*a*) All proceedings for the recovery of compensation, or concerning any right or liability arising out of or incidental thereto, or for the enforcement against the employer or an insurance carrier of any liability for compensation imposed upon him by this act in favor of the injured employee, his dependents or any third person, or for the determination of any question as to the distribution of compensation among dependents or other persons, or for the determination of any question as to who are dependents of any deceased employee, or what persons are entitled to any benefit under the compensation provisions of this act, or for obtaining any order which by this act the commission is authorized to make, or for the determination of any other matter, jurisdiction over which is vested by this act in the commission, shall be instituted before the commission, and not elsewhere, except as otherwise in this act provided, and the commission is hereby vested with full power, authority and jurisdiction to try and finally determine all such matters, subject only to the review by the courts in this act specified and in the manner and within the time in this act provided. Exclusive jurisdiction.

(*b*) All orders, rules and regulations, findings, decisions and awards of the commission shall be in force and shall be prima facie lawful; and all such orders, rules and regulations, findings, decisions and awards shall be conclusively presumed to be reasonable and lawful, until and unless they are modified or set aside by the commission or upon a review by the courts in this act specified and within the time and in the manner herein specified. Acts of commission prima facie lawful.

SEC. 56. (*a*) Any notice, order or decision required by this act to be served upon any person or party either before, during or after the institution of any proceeding before the commission, may be served in the manner provided by Service of notices and orders.

chapter five, title fourteen of part two of the Code of Civil Procedure of this state, unless otherwise directed by the commission or a member thereof, in which event the same shall be served in accordance with the order or direction of said commission or member thereof. The commission or a commissioner may also, in the cases mentioned in the Code of Civil Procedure of this state, order service to be made by publication of the notice of time and place of hearing. Where service is ordered to be made by publication the date of the hearing may be fixed at more than thirty days from the date of filing the application.

(*b*) Any such notice, order or decision affecting the state or any city and county, city, school district or public corporation therein, shall be served upon the same officer, officers, person or persons, upon whom the service of similar notices, orders or decisions is authorized by law.

Certain employees peace officers.

(*c*) The secretary, assistant secretaries and the inspectors appointed by the commission shall have all the powers conferred by law upon peace officers to carry weapons, make arrests and serve warrants and other process in this state.

Powers of commission as to procedure.

SEC. 57. (*a*) The commission shall have full power and authority:

(1) To adopt reasonable and proper rules of practice and procedure.

(2) To regulate and provide the manner, and by whom, minors and incompetent persons shall appear and be represented before it.

(3) To appoint a trustee or guardian ad litem to appear for and represent any such minor or incompetent upon such terms and conditions as it may deem proper; and such guardian or trustee must, if required by the commission or a commissioner, give a bond in the same form and of the same character required by law from a guardian appointed by the courts and in such an amount as the commission or a commissioner may fix and determine, such bond to be approved by the commission or a commissioner, and such guardian or trustee shall not be discharged from liability until he shall have filed an account with the commission or with the probate court and such account shall have been approved. The trustee or guardian shall be entitled to

receive such compensation for his services as shall be fixed and allowed by the commission or by the probate court.

(4) To provide for the joinder in the same proceeding of all persons interested therein, whether as employer, insurance carrier, employee, dependent, creditor or otherwise.

(5) To regulate and prescribe the kind and character of notices, where not otherwise prescribed by this act, and the service thereof.

(6) To regulate and prescribe the nature and extent of the proofs and evidence.

(*b*) The commission shall also have jurisdiction to determine controversies arising out of insurance policies issued to self-employing persons, conferring benefits identical with those prescribed by this act.

The commission may try and determine matters referred to it by the parties under the provisions of part three, title ten, of the Code of Civil Procedure, with respect to controversies arising out of insurance issued to self-employing persons under the provisions of this act. Such controversies may be submitted to it by the signed agreement of the parties, or by the application of one party and the submission of the other to its jurisdiction, with or without an express request for arbitration. The state compensation insurance fund must submit to the commission, the consent of the other party being obtained, all controversies susceptible of being arbitrated under this section. In acting as arbitrator under the provisions of this section, the commission shall have all the powers which it may lawfully exercise in compensation cases, and its findings and award upon such arbitration shall have the same conclusiveness and be subject to the same mode of reopening, review and enforcement as in compensation cases. No fee or cost shall be charged by the commission to any party for arbitrating the issues presented under this section.

Injuries without the state.

SEC. 58. The commission shall have jurisdiction over all controversies arising out of injuries suffered without the territorial limits of this state in those cases where the injured employee is a resident of this state at the time of the injury and the contract of hire was made in this state, and any

such employee or his dependents shall be entitled to the compensation or death benefits provided by this act.

SEC. 59. The commission may upon the agreement of the parties, upon the application of either, or of its own motion, and either with or without notice, direct and order a reference in the following cases:

(1) To try any or all of the issues in any proceeding before it, whether of fact or of law, and to report a finding, order, decision or award to be based thereon.

(2) To ascertain a fact necessary to enable the commission to determine any proceeding before it or to make any order, decision or award that the commission is authorized to make under this act, or that is necessary for the information of the commission.

(*b*) The commission may appoint one or more referees in any proceeding, as it may deem necessary or advisable, and may refer matters arising out of the same proceeding to different referees. It may also, in its discretion, appoint general referees who shall hold office during the pleasure of the commission. Any referee appointed by the commission shall have such powers, jurisdiction and authority as is granted under the law, by the order of appointment and by the rules of the commission, and shall receive such salary or compensation for his services as may be fixed by the commission.

Powers of referees.

(*c*) Any party to the proceeding may object to the appointment of any person as referee upon any one or more of the grounds specified in section six hundred forty-one of the Code of Civil Procedure and such objection must be heard and disposed of by the commission. Affidavits may be read and witnesses examined as to such objections.

Objections to referees.

(*d*) Before entering upon his duties, the referee must be sworn before an officer authorized to administer oaths, faithfully and fairly to hear and determine the matters and issues referred to him, and to make just findings and report according to his understanding.

(*e*) The referee must report his findings in writing to the commission within fifteen days after the testimony is closed. Such report shall be made in the form prescribed by the commission and shall include all matters required to

Report of referee.

be included in the order of reference or by the rules of the commission. The facts found and conclusions of law must be separately stated.

(*f*) Upon the filing of the report of the referee, the commission may confirm, adopt, modify or set aside the same or any part thereof and may, either with or without further proceedings, and either with or without notice, enter its order, findings, decision or award based in whole or in part upon the report of the referee, or upon the record in the case.

Referees may report testimony only.

(*g*) The provisions of the preceding subdivisions of this section shall not be construed to prevent the commission from requiring its referees merely to hold hearings and to make return of the testimony to the commission.

How governed.

SEC. 60. (*a*) All hearings and investigations before the commission or any member thereof, or any referee appointed thereby, shall be governed by this act and by the rules of practice and procedure adopted by the commission, and in the conduct thereof neither the commission nor any member thereof, nor any referee appointed thereby, shall be bound by the common law or statutory rules of evidence and procedure, but may make inquiry in such manner, through oral testimony and written and printed records, as is best calculated to ascertain the substantial rights of the parties and carry out justly the spirit and provisions of this act. No informality in any proceeding or in the manner of taking testimony shall invalidate any order, decision, award, rule or regulation made, approved or confirmed by the commission; nor shall any order, award, rule or regulation be invalidated because of the admission into the record, and use as proof of any fact in dispute, of any evidence not admissible under the said common law or statutory rules of evidence and procedure.

Informality not to invalidate.

Deposition without the state.

(*b*) The commission, or a commissioner or referee, or any party to the action or proceeding, may, in any investigation or hearing before the commission, cause the deposition of witnesses residing within or without the state to be taken in the manner prescribed by law for like depositions in civil actions in the superior courts of this state, and to that end may compel the attendance of witnesses and the production

of books, documents, papers and accounts; *provided*, that depositions taken outside of the state may be taken before any officers authorized to administer oaths.

Powers of commissioners and other officers.

SEC. 61. The commission and each member thereof, its secretary, assistant secretaries and referees, shall have power to administer oaths, certify to all official acts, and to issue subpœnas for the attendance of witnesses and the production of papers, books, accounts, documents and testimony in any inquiry, investigation, hearing or proceeding in any part of the state. Each witness who shall appear, by order of the commission or a member thereof, or a referee appointed thereby, shall be entitled to receive, if demanded, for his attendance the same fees and mileage allowed by law to a witness in civil cases, which amount shall be paid by the party at whose request such witness is subpœnaed, unless otherwise ordered by the commission. When any witness who has not been required to attend at the request of any party is subpœnaed by the commission, his fees and mileage may be paid from the funds appropriated for the use of the commission in the same manner as other expenses of the commission are paid. Any witness subpœnaed, except one whose fees and mileage may be paid from the funds of the commission, may, at the time of service, demand the fee to which he is entitled for travel to and from the place at which he is required to appear, and one day's attendance. If such witness demands such fees at the time of service, and they are not at that time paid or tendered, he shall not be required to attend before the commission, member thereof, or referee as directed in the subpœna. All fees and mileage to which any witness is entitled, under the provisions of this section, may be collected by action therefor instituted by the person to whom such fees are payable.

Witness fees.

Courts to compel attendance of witnesses.

SEC. 62. The superior court in and for the county, or city and county, in which any inquiry, investigation, hearing or proceeding may be held by the commission or any member thereof or referee appointed thereby, shall have the power to compel the attendance of witnesses, the giving of testimony and the production of papers, including books, accounts and documents, as required by any subpœna issued by the commission or member thereof or referee. The commission or

any member thereof or the referee, before whom the testimony is to be given or produced, in case of the refusal of any witness to attend or testify or produce any papers required by such subpœna, may report to the superior court in and for the county, or city and county, in which the proceeding is pending, by petition, setting forth that due notice has been given of the time and place of attendance of said witness, or the production of said papers, and that the witness has been subpœnaed in the manner prescribed in this act, and that the witness has failed and refused to attend or produce the papers required by the subpœna, or has refused to answer questions propounded to him in the course of such proceeding, and ask an order of said court, compelling the witness to attend and testify or produce said papers before the commission. The court, upon the petition of the commission or such member thereof or referee, shall enter an order directing the witness to appear before the court at a time and place to be fixed by the court in such order, the time to be not more than ten days from the date of the order, and then and there show cause why he had not attended and testified or produced said papers before the commission, member thereof or referee. A copy of said order shall be served upon said witness. If it shall appear to the court that said subpœna was regularly issued by the commission or member thereof or referee and that the witness was legally bound to comply therewith, the court shall thereupon enter an order that said witness appear before the commission or member thereof or referee at a time and place to be fixed in such order, and testify or produce the required papers, and upon failure to obey said order, said witness shall be dealt with as for contempt of court. The remedy provided in this section is cumulative, and shall not be construed to impair or interfere with the power of the commission or a member thereof to enforce the attendance of witnesses and the production of papers, and to punish for contempt in the same manner and to the same extent as courts of record.

Proceedings in contempt.

SEC. 63. (*a*) The commission is hereby vested with full power, authority and jurisdiction to do and perform any and all things, whether herein specifically designated, or in addi-

Implied powers of commission.

tion thereto, which are necessary or convenient in the exercise of any power, authority or jurisdiction conferred upon it under this act.

(*b*) The commission and each member thereof shall have power to issue writs or summons, warrants of attachment, warrants of commitment and all necessary process in proceedings for contempt, in like manner and to the same extent as courts of record. The process issued by the commission or any member thereof shall extend to all parts of the state and may be served by any persons authorized to serve process of courts of record, or by any person designated for that purpose by the commission or any member thereof. The person executing any such process shall receive such compensation as may be allowed by the commission, not to exceed the fees now prescribed by law for similar services, and such fees shall be paid in the same manner as provided herein for the fees of witnesses.

Service of process.

Fees.

SEC 64. (*a*) Any party or person aggrieved directly or indirectly by any final order, decision, award, rule or regulation of the commission, made or entered under any provision contained in this act, may apply to the commission for a rehearing in respect to any matters determined or covered by such final order, decision, award, rule or regulation and specified in the application for rehearing within the time and in the manner hereinafter specified, and not otherwise.

(*b*) No cause of action arising out of any such final order, decision or award shall accrue in any court to any person until and unless such person shall have made application for such rehearing, and such application shall have been granted or denied; *provided*, that nothing herein contained shall be construed to prevent the enforcement of any such final order, decision, award, rule or regulation in the manner provided in this act.

(*c*) Such application shall set forth specifically and in full detail the grounds upon which the applicant considers said final order, decision, award, rule or regulation is unjust or unlawful, and every issue to be considered by the commission. Such application must be verified upon oath in the same manner as required for verified pleadings in courts of

Requisites of application.

record and must contain a general statement of any evidence or other matters upon which the applicant relies in support thereof. The applicant for such hearing shall be deemed to have finally waived all objections, irregularities and illegalities concerning the matter upon which such rehearing is sought other than those set forth in the application for such rehearing.

Service of application.

(*d*) A copy of such application for rehearing shall be served forthwith upon all adverse parties by the party applying for such rehearing, and any such adverse party may file an answer thereto within ten days thereafter. Such answer must likewise be verified. The commission may require the application for rehearing to be served on such other persons or parties as may be designated by it.

Decision.

(*e*) Upon filing of an application for a rehearing, if the issues raised thereby have theretofore been adequately considered by the commission, it may determine the same by confirming without hearing its previous determination, or if a rehearing is necessary to determine the issues raised, or any one or more of such issues, the commission shall order a rehearing thereon and consider and determine the matter or matters raised by such application. If at the time of granting such rehearing it shall appear to the satisfaction of the commission that no sufficient reason exists for taking further testimony, the commission may reconsider and redetermine the original cause without setting a time and place for such further rehearing. Notice of the time and place of such hearing, if any, shall be given to the applicant and adverse parties, and to such other persons as the commission may order.

(*f*) If after such rehearing and a consideration of all the facts, including those arising since the making of the order, decision or award involved, the commission shall be of the opinion that the original order, decision or award, or any part thereof, is in any respect unjust or unwarranted, or should be changed, the commission may abrogate, change or modify the same. An order, decision or award made after such rehearing, abrogating, changing or modifying the original order, decision or award, shall have the same force and

effect as an original order, decision or award, but shall not affect any right or the enforcement of any right arising from or by virtue of the original order, decision or award, unless so ordered by the commission. An application for a rehearing shall be deemed to have been denied by the commission unless it shall have been acted upon within thirty days from the date of filing; *provided, however*, that the commission may, upon good cause being shown therefor, extend the time within which it may act upon such application for not exceeding thirty days.

Failure to decide within thirty days.

Grounds for rehearing in compensation cases.

SEC. 65. (*a*) At any time within twenty days after the service of any final order or decision of the commission awarding or denying compensation, or arising out of or incidental thereto, any party or parties aggrieved thereby may apply for such rehearing upon one or more of the following grounds and upon no other grounds:

(1) That the commission acted without or in excess of its powers.

(2) That the order, decision or award was procured by fraud.

(3) That the evidence does not justify the findings of fact.

(4) That the applicant has discovered new evidence, material to him, which he could not, with reasonable diligence, have discovered and produced at the hearing.

(5) That the findings of fact do not support the order, decision or award.

(*b*) Nothing contained in this section shall, however, be construed to limit the grant of continuing jurisdiction contained in subsection (*d*) of section twenty of this act.

Grounds for rehearing in other cases.

SEC. 66. (*a*) At any time within twenty days after the service of any final order, decision, rule or regulation, other than an order or award pertaining to compensation, any party or parties, person or persons aggrieved thereby or otherwise affected, directly or indirectly, may apply for such rehearing upon one or more of the following grounds and upon no other grounds:

(1) That the commission acted without or in excess of its powers.

(2) That the order or decision was procured by fraud.

(3) That the order, decision, rule or regulation is unreasonable.

(*b*) Nothing contained in this section shall be construed to limit the right of the commission, at any time and from time to time, to adopt new or different rules or regulations or new or different standards of safety, or to abrogate, change or modify any existing rule, regulation or standard, or any part thereof, or to deprive the commission of continuing jurisdiction over the same, or to prevent the enforcement in the manner provided by this act, of any rules, regulations or standards of the commission, or any part thereof, when so adopted, or changed, or modified.

Writ of review.

SEC. 67. (*a*) Within thirty days after the application for a rehearing is denied, or, if the application is granted, within thirty days after the rendition of the decision on the rehearing, any party affected thereby may apply to the supreme court of this state, or to the district court of appeal of the appellate district in which such person resides, for a writ of certiorari or review, hereinafter referred to as a writ of review, for the purpose of having the lawfulness of the original order, rule, regulation, decision or award, or the order, rule, regulation, decision or award on rehearing inquired into and determined.

Return of writ.

(*b*) Such writ shall be made returnable not later than thirty days after the date of the issuance thereof, and shall direct the commission to certify its record in the case to the court. On the return day the cause shall be heard in the court unless for good cause the same be continued. No new or additional evidence may be introduced in such court, but the cause shall be heard on the record of the commission as certified to by it. The review shall not be extended further than to determine whether:

Scope of writ.

(1) The commission acted without or in excess of its powers.

(2) The order, decision or award was procured by fraud.

(3) The order, decision, rule or regulation was unreasonable.

(4) If findings of fact are made, such findings of fact support the order, decision or award under review.

Findings of fact conclusive.

(*c*) The findings and conclusions of the commission on questions of fact shall be conclusive and final and shall not be subject to review; such questions of fact shall include ultimate facts and the findings and conclusions of the commission. The commission and each party to the action or proceeding before the commission shall have the right to appear in the review proceeding. Upon the hearing the court shall enter judgment either affirming or setting aside the order, decision or award or may remand the case for further proceedings before the commission.

Decision of court.

Limitation of court jurisdiction.

(*d*) The provisions of the Code of Civil Procedure of this state relating to writs of review shall, so far as applicable and not in conflict with this act, apply to proceedings in the courts under the provisions of this section. No court of this state, except the supreme court and the district courts of appeal to the extent herein specified, shall have jurisdiction to review, reverse, correct or annul any order, rule, regulation, decision or award of the commission, or to suspend or delay the operation or execution thereof, or to restrain, enjoin or interfere with the commission in the performance of its duties; *provided*, that a writ of mandamus shall lie from the supreme court or the district courts of appeal in all proper cases.

Stay of proceedings.

SEC. 68. (*a*) The filing of an application for a rehearing shall have the effect of suspending the order, decision, award, rule or regulation affected, in so far as the same applies to the parties to such application, unless otherwise ordered by the commission, for a period of ten days, and the commission may, in its discretion and upon such terms and conditions as it may by order direct, stay, suspend or postpone the same during the pendency of such rehearing.

(*b*) The filing of an application for, or the pendency of, a writ of review, shall not of itself stay or suspend the operation of the order, decision, award, rule or regulation of the commisison subject to review, but the court before which such application is filed may, in its discretion, stay or suspend in whole or in part the operation of the order, decision,

award, rule or regulation of the commission subject to review, upon such terms and conditions as it may by order direct, except as provided in the following subsection.

Undertaking on stay of proceedings.

(*c*) The operation of any order or award entered by the commission under the provisions of sections six to thirty-one, inclusive, of this act, or any judgment entered thereon, shall not at any time be stayed by the court to which petition is made for a writ of review, unless a written undertaking be executed on the part of the petitioner by two or more sureties, to the effect that they are bound in double the amount named in such order, award or judgment; that if the order, award or judgment appealed from, or any part thereof, be affirmed, or the proceeding upon review be dismissed, the petitioner shall pay the amount directed to be paid by the order, award or judgment, or the part of such amount as to which the order, award or judgment is affirmed, if affirmed only in part, and all damages and costs which may be awarded against the petitioner; and that, if the said petitioner does not make such payment within thirty days after the filing with the commission of the remittitur from the reviewing court, judgment may be entered, on motion of the adverse party, in his favor, and to which the said undertaking may be transferred, in any superior court in which a certified copy of the order or award may be filed against the sureties for such amount, together with interest that may be due thereon, and the damages and costs which may be awarded against the said petitioner. The provisions of the Code of Civil Procedure, except in so far as they may be inconsistent with this act, are applicable to said undertaking. Such undertaking shall be filed with the commission, and the certificate of the commission, or any proper officer thereof, of the filing and approval of such undertaking, is sufficient evidence of the compliance of the petitioner with the provisions of this subsection.

To be liberal.

SEC. 69. (*a*) Whenever this act, or any part or section thereof, is interpreted by a court, it shall be liberally construed by such court with the purpose of extending the benefits of the act for the protection of persons injured in the course of their employment.

(*b*) If any section, subsection, subdivision, sentence, clause or phrase of this act is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this act. The legislature hereby declares that it would have passed this act, and each section, subsection, subdivision, sentence, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses or phrases is declared unconstitutional.

Interstate commerce.

(*c*) This act shall not be construed to apply to employers or employments which, according to law, are so engaged in interstate commerce as not to be subject to the legislative power of the state, or to employees injured while they are so engaged, except in so far as this act may be permitted to apply under the provisions of the constitution of the United States or the acts of congress.

SEC. 70. (*a*) Any employer, having in his employment any employee not included within the term "employee" as defined by section eight of this act or not entitled to compensation under this act, and any such employee, may, by their joint election, elect to come under the compensation provisions of this act in the manner hereinafter provided.

(*b*) Such election on the part of the employer shall be made by filing with the commission a written statement to the effect that he accepts the compensation provisions of this act, which, when filed, shall operate, within the meaning of section six of this act, to subject him to the compensation provisions thereof, and of all acts amendatory thereof, for the term of one year from the date of filing, and thereafter without further act on his part, for successive terms of one year each, unless such employer shall, at least sixty days prior to the expiration of such first or succeeding year, file in the office of the commission a notice in writing that he withdraws his election. Such acceptance shall be held to include employees whose employment is both casual and not in the course of the trade, business, profession or occupation of the employer, unless expressly excluded therefrom. In

When election presumed.

case any employer is insured against liability for compensation under this act, he shall be deemed to have so elected

during the period that such policy shall remain in force, without filing such written notice with the commission, as to all classes of employees covered by such policy of insurance, anything in this act to the contrary notwithstanding.

Acceptance by employee.

(*c*) Any employee in the service of any employer who has made an election in either of the modes above prescribed, shall be deemed to have accepted, and shall, within the meaning of section six of this act, be subject to the compensation provisions of this act, and of any act amendatory thereof, if, at the time of the injury for which liability is claimed:

(1) The employer charged with such liability is subject to the compensation provisions of this act, whether the employee has actual notice thereof or not; and

(2) Such employee shall not, at the time of entering into the employment, have given to his employer notice in writing that he elects not to be subject to the compensation provisions of this act; or, in the event that such employment was entered into in advance of the election by the employer, such employee shall have given to his employer notice in writing that he elects to be subject to such provisions, or without giving either of such notices, shall have remained in the service of such employer for five days after the employer has filed his election, in which case the time at which the employee becomes subject to said compensation provisions shall be deemed to be at the beginning of said period.

Election by state.

(*d*) The state, and all political or other subdivisions thereof, as defined in section seven, and all state institutions, shall be conclusively presumed to have elected to come within the provisions of this act as to all employments otherwise excluded from this act.

Acceptance under former laws.

(*e*) All written acceptances filed by employers with the commission prior to the taking effect of this act, accepting the provisions of the workmen's compensation, insurance and safety act, chapter one hundred seventy-six, statutes of 1913, and all acts amendatory thereof, shall, unless written notice be given to the contrary by said employer within sixty days after the taking effect of this act, be deemed acceptances of the provisions of this act, and all acts amendatory thereof, in accordance with the provisions of this section.

SEC. 72. Nothing contained in this act shall be construed to limit, interfere with, disturb, or render ineffective in any degree, any matter, proceeding or transaction pending, done or performed under the provisions of chapter one hundred seventy-six, statutes of 1913, and all acts amendatory thereof, or supplementary thereto, by the industrial accident commission, or any department or division thereof, or to affect any right or liability accrued or accruing or to accrue under said acts, but each and every part thereof are hereby expressly saved and continued under the jurisdiction of said industrial accident commission, with full power, authority and jurisdiction, and with the right and duty in said industrial accident commission to fully administer and dispose of the same.

Not retroactive.

SEC. 73. The compensation provisions of this act, except procedural provisions, shall not apply to any injury sustained prior to the taking effect hereof.

SEC. 74. This act shall take effect on the first day of January, 1918.

(Act of 1913.)

Annual report.

SEC. 88. The commission shall, not later than the first day of December of each calendar year, subsequent to the year 1913, make a report to the governor of the state covering its entire operations and proceedings for the previous fiscal year, with such suggestions or recommendations as it may deem of value for public information. Such report shall be printed and a copy thereof furnished to all applicants within this state.

Appropriation.

SEC. 89. The sum of one hundred eighty-seven thousand four hundred seventy dollars is hereby appropriated out of any money in the state treasury, not otherwise appropriated, to be used by the industrial accident commission in carrying out the purposes of this act, and the controller is hereby directed to draw his warrant on the general fund from time to time in favor of said industrial accident commission for the amounts expended under its direction, and the treasurer is hereby authorized and directed to pay the same.

SEC. 90. All acts or parts of acts inconsistent with this act are hereby repealed.

SEC. 91. The compensation provisions of this act shall not apply to any injury sustained prior to the taking effect thereof.

SEC. 92. This act shall take effect and be in force on and after the first day of January, A. D. 1914.

(Act of 1917.)

SEC. 71. Sections two, twelve, thirteen, fourteen, fifteen, sixteen, seventeen, eighteen, nineteen, twenty, twenty-one, twenty-two, twenty-three, twenty-four, twenty-five, twenty-six, twenty-seven, twenty-eight, twenty-nine, thirty, thirty-one, thirty-two, thirty-three, thirty-four, thirty-five, fifty-one, fifty-two, fifty-three, fifty-four, fifty-five, fifty-six, fifty-seven, fifty-eight, fifty-nine, sixty, sixty-one, sixty-two, sixty-three, sixty-four, sixty-five, sixty-six, sixty-seven, sixty-eight, sixty-nine, seventy, seventy-one, seventy-two, seventy-three, seventy-four, seventy-five, seventy-five *a*, seventy-six, seventy-seven, seventy-eight, seventy-nine, eighty, eighty-one, eighty-two, eighty-three, eighty-four, eighty-five, eighty-six and eighty-seven of chapter one hundred seventy-six, statutes of 1913, and all other acts and parts of acts inconsistent herewith, are hereby repealed; *provided*, that nothing contained in this act shall be construed as limiting or repealing sections one, three, four, five, six, seven, eight, nine, ten, eleven, thirty-six, thirty-seven, thirty-eight, thirty-nine, forty, forty-one, forty-two, forty-three, forty-four, forty-five, forty-six, forty-seven, forty-eight, forty-nine, fifty, eighty-eight and ninety of the said chapter one hundred seventy-six, statutes of 1913. Repealing sections.

ACT No. 2144g.

(Stats. 1915, chap. 667.)

Hospital fees—Accounting of.

SECTION 1. The following terms, as used in this act, shall be construed as follows:

(*a*) The term "employer" shall mean and include every person, partnership, company, association, joint stock association or corporation engaged in any business or enterprise in this state and hiring or employing five or more persons in such business. Terms defined.

(b) The term "charge" shall mean and include any deduction from the salary or wage of an employee, or any collection from or contribution by an employee, whether such charge be made regularly at stated intervals or at the time of injury or illness of an employee, or at any other time or in any other manner.

Report to be filed.

SEC. 2. Every employer who affords or provides hospital service of any sort for his employees, for which service any charge is received or collected by such employer, or at his instance or request, shall in each year, on or before the thirtieth day of January thereof, file as hereinafter provided a written report for the next last preceding year, which report shall contain a statement showing (1) the total amount of hospital charges collected or received during the year, (2) an itemized account of all expenditures, investments or other disposition of such charges, and (3) a statement showing what balance, if any, remains. This report shall be verified by the employer, if an individual; by a member, if a partnership; by the secretary or president, if a corporation, company, association or joint stock association.

Fees to be reasonable.

SEC. 3. (As amended, Stats. 1917, chap. 73.) Every such hospital charge demanded, collected or received by an employer shall be just and reasonable. The railroad commission is hereby given authority to decide what is an unreasonable charge in all cases where such charge is made by a hospital maintained by a common carrier by rail, and in all cases where the charge is made by a hospital maintained by other than a common carrier by rail, the industrial accident commission is hereby given authority to decide what is an unreasonable charge.

SEC. 4. No such hospital charge collected or received by an employer shall be devoted to any purpose other than bona fide hospital or medical service for the employees from whom the charge is demanded, collected or received.

Common carrier subject to railroad commission.

SEC. 5. (As amended, Stats. 1917, chap. 73.) Every common carrier by rail employer who is under a duty to render the report referred to in section two of this act shall be subject to the jurisdiction, control and regulation of the railroad commission in respect to auditing and inspection of

all books, records and accounts and to enforce its orders in the same manner and to the same extent as said commission now possesses over any public utility that is subject to the provisions of the "public utilities acts" of this state, approved December 23, 1911, as amended June 11, 1913, and June 14, 1913, and all acts amendatory thereof or supplemental thereto. Every employer coming under the provisions of this act shall be required to post a copy of this statement or report upon all bulletin boards at terminals or in a conspicuous place where employees can read such statement or report. Every employer other than a common carrier by rail, who is under a duty to render the report referred to in section two of this act, shall be subject to the jurisdiction, control and regulation of the industrial accident commission in respect to the auditing and inspection of all books, records and accounts and the authority is hereby conferred upon said industrial accident commission to enforce by appropriate orders and processes the provisions of this act. The written report required by section two hereof when made by a common carrier by rail shall be filed with the railroad commission. All other written reports required by section two hereof shall be filed with the industrial accident commission.

Other employers under industrial accident commission.

ACT No. 2223.

(Stats. 1873–74, page 726.)

Mine regulations—Coal mines.

SECTION 1. The owner or agent of every coal mine shall make or cause to be made an accurate map or plan of the workings of such coal mine, on a scale of one hundred feet to the inch.

Map.

SEC. 2. A true copy of which map or plan shall be kept at the office of the owner or owners of the mine, open to the inspection of all persons, and one copy of such map or plan shall be kept at the mines by the agent or other person having charge of the mines, open to the inspection of the workmen.

Same to be open to inspection.

SEC. 3. The owner or agent of every coal mine shall provide at least two shafts or slopes, or outlets, separated by natural strata of not less than one hundred and fifty feet in

Escape shaft.

breadth, by which shafts, slopes, or outlets distinct means of ingress and egress are always available to the persons employed in the coal mine; *provided*, that if a new tunnel, slope, or shaft will be required for the additional opening, work upon the same shall commence immediately after the passage of this act, and continue until its final completion, with reasonable dispatch.

Ventilation.

SEC. 4. The owner or agent of every coal mine shall provide and establish for every such mine an adequate amount of ventilation, of not less than fifty-five cubic feet per second of pure air, or thirty-three hundred feet per minute, for every fifty men at work in such mine, and as much more as circumstances may require, which shall be circulated through to the face of each and every working place throughout the entire mine, to dilute and render harmless and expel therefrom the noxious, poisonous gases, to such an extent that the entire mine shall be in a fit state for men to work therein, and be free from danger to the health and lives of the men by reason of said noxious and poisonous gases, and all workings shall be kept clear of standing gas.

Inspection by overseer.

SEC. 5. To secure the ventilation of every coal mine, and provide for the health and safety of the men employed therein, otherwise and in every respect, the owner, or agent, as the case may be, in charge of every coal mine, shall employ a competent and practical inside overseer, who shall keep a careful watch over the ventilating apparatus, over the air ways, the traveling ways, the pumps and sumps, the timbering, to see as the miners advance in their excavations that all loose coal, slate, or rock overhead is carefully secured against falling; over the arrangements for signaling from the bottom to the top, and from the top to the bottom of the shaft or slope, and all things connected with the [and] appertaining to the safety of the men at work in the mine. He, or his assistants, shall examine carefully the workings of all mines generating explosive gases, every morning before the miners enter, and shall ascertain that the mine is free from danger, and the workmen shall not enter the mine until such examination has been made and reported, and the cause of danger, if any, be removed.

SEC. 6. The overseer shall see that hoisting machinery is kept constantly in repair and ready for use, to hoist the workmen in or out of the mine. Hoisting machinery.

SEC. 7. The word "owner" in this act shall apply to lessee as well. Owner defined.

SEC. 8. For any injury to person or property occasioned by any violation of this act, or any wilful failure to comply with its provisions, a right of action shall accrue to the party injured for any direct damages he or she may have sustained thereby, before any court of competent jurisdiction. Action for injuries.

SEC. 9. For any wilful failure or negligence on the part of the overseer of any coal mine, he shall be liable to conviction of misdemeanor, and punished according to law; *provided*, that if such wilful failure or negligence is the cause of the death of any person, the overseer, upon conviction, shall be deemed guilty of manslaughter. Negligence of overseer.

SEC. 10. All boilers used for generating steam in and about coal mines shall be kept in good order, and the owner or agent thereof shall have them examined and inspected, by a competent boilermaker, as often as once in three months. Boilers.

SEC. 11. This act shall not apply to opening a new coal mine. Exception.

ACT No. 2224.

(Stats. 1881, page 81.)

Miners' hospital.

SECTION 1. There shall be erected, as soon as conveniently may be, upon some suitable site, * * * a public hospital and asylum for the reception, care, medical, and surgical treatment, and relief of the sick, injured, disabled, and aged miners, which shall be known as the "California State Miners' Hospital and Asylum." * * * Object.

SEC. 5. Indigent miners shall be charged for medical attendance, surgical operations, board, and nursing while residents in the hospital and asylum, no more than the actual cost; paying patients, whose friends can pay their expenses, and who are not chargeable upon townships and counties, shall pay according to the terms directed by the trustees. Charges.

Patients from counties, em-

SEC. 6. The several boards of supervisors of counties, or any constituted authority in the state having care and charge of any indigent sick, or aged person or persons, if satisfactorily proven by them to have been miners, shall have authority to send to the "California State Miners' Hospital and Asylum" such persons, and they shall be severally chargeable with the expenses of the care, maintenance, and treatment, and removal to and from the hospital and asylum of such patients.

ACT No. 2225.

(Stats. 1893, page 82.)

Mine regulations—Signals.

Mine signals.

SECTION 1. Every person, company, corporation, or individual operating any mine within the State of California—gold, silver, copper, lead, coal, or any other metal or substance where it is necessary to use signals by means of bell or otherwise for shafts, inclines, drifts, crosscuts, tunnels, and underground workings—shall, after the passage of this bill, adopt, use, and put in force the following system or code of mine bell signals, as follows:

Code of mine bell signals.

1 bell, to hoist. (See Rule 2.)

1 bell, to stop if in motion.

2 bells, to lower. (See Rule 2.)

3 bells, man to be hoisted; run slow. (See Rule 2.)

4 bells, start pump, if not running, or stop pump if running.

5 bells, send down tools. (See Rule 4.)

6 bells, send down timbers. (See Rule 4.)

7 bells, accident; move bucket or cage by verbal orders only.

1—3 bells, start or stop air compressor.

1—4 bells, foreman wanted.

2—1—1 bells, done hoisting until called.

2—1—2 bells, done hoisting for the day.

2—2—2 bells, change buckets from ore to water, or vice versa.

3—2—1 bells, ready to shoot in the shaft. (See Rule 3.)

Engineer's signal, that he is ready to hoist, is to raise the bucket or cage two feet and lower it again. (See Rule 3.)

Levels shall be designated and inserted in notice hereinafter mentioned. (See Rule 5.)

SEC. 2. For the purpose of enforcing and properly understanding the above code of signals, the following rules are hereby established:

Rule 1.—In giving signals make strokes on bell at regular intervals. The bar (—) must take the same time as for one stroke of the bell, and no more. If timber, tools, the foreman, bucket, or cage, are wanted to stop at any level in the mine, signal by number of strokes on the bell, the number of the level first before giving the signal for timber, tools, etc. Time between signals to be double bars (— —). Examples: Rules.

6— —5, would mean stop at sixth level with tools.

4— —1—1— —1, would mean stop at fourth level, man on, hoist.

2— —1—4, would mean stop at second level with foreman.

Rule 2.—No person must get on or off the bucket or cage while the same is in motion. When men are to be hoisted, give the signal for men. Men *must* then get on bucket or cage, *then* give the signal to hoist. Bell cord must be in reach of man on the bucket or cage at stations.

Rule 3.—After signal "Ready to shoot in shaft," engineer must give his signal when he is ready to hoist. Miners must then give the signal of "men to be hoisted," then "spit fuse," get into the bucket, and give the signal to hoist.

Rule 4.—All timbers, tools, etc., "longer than the depth of the bucket," to be hoisted or lowered, must be securely lashed at the upper end to the cable. Miners must know they will ride up or down the shaft without catching on rocks or timbers, and be thrown out.

Rule 5.—The foreman will see that one printed sheet of these signals and rules for each level and one for the engine room are attached to a board not less than twelve inches wide by thirty-six inches long, and securely fasten the board up where signals can be easily read at the places above stated.

Rule 6.—The above signals and rules must be obeyed. Any violation will be sufficient grounds for discharging the party or parties so doing. No person, company, corporation, or individuals operating any mine within the State of California shall be responsible for accidents that may happen to

men disobeying the above rules and signals. Said notice and rules shall be signed by the person or superintendent having charge of the mine, who shall designate the name of the corporation or the owner of the mine.

Liability for violation.

SEC. 3. Any person or company failing to carry out any of the provisions of this act shall be responsible for all damages arising to or incurred by any person working in said mine during the time of such failure.

ACT No. 2230.*

(Stats. 1909, page 279.)

Hours of labor in mines and smelting works. (See Stats. 1913, chapter 186.)

The foregoing statute was held to be constitutional: *Ex parte Martin,* 106 Pac. Rep. 235.

ACT No. 2230a.

(Stats. 1913, chap. 186.)

Hours of labor in mines, underground workings, and smelters.

Eight-hour day.

SECTION 1. That the period of employment for all persons who are employed or engaged in work in underground mines in search of minerals, whether base or precious, or who are engaged in such underground mines for other purposes, or who are employed or engaged in any other underground workings whether for the purpose of tunneling, making excavations or to accomplish any other purpose or design, or who are employed in smelters and other institutions for the reduction or refining of ores or metals, shall not exceed eight hours within any twenty-four hours, and the hours of employment in such employment or work day shall be consecutive, excluding, however, any intermission of time for lunch or meals; *provided*, that, in case of emergency where life or property is in imminent danger, the period may be a longer time during the continuance of the exigency or emergency.

Penalty.

SEC. 2. Any person who shall violate any provision of this act, and any person who as foreman, manager, director or officer of a corporation, or as the employer or superior officer

*Superseded by Act No. 2230*a*.

of any person, shall command, persuade or allow any person to violate any provision of this act, shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than fifty dollars ($50.00) nor more than three hundred dollars ($300.00), or by imprisonment of not more than three months. And the court shall have discretion to impose both fine and imprisonment as herein provided.

SEC. 3. All acts and parts of acts inconsistent with this act are hereby repealed.

ACT No. 2233.

(Stats. 1913, chap. 368.)

Telephones in mines.

SECTION 1. In all mines operated and worked in this state where a depth of more than five hundred feet underground has been reached, a telephone system must be established, equipped and maintained by the owners or lessees thereof with stations at each working level below the depth aforesaid, communicating with a station thereof on the surface of any such mine. Telephone system.

SEC. 2. The failure or refusal of any owner or lessee to install or maintain such telephone system shall be deemed guilty of misdemeanor and punished accordingly.

ACT No. 2553.

(Stats. 1909, page 383.)

Vacations.

SECTION 1. (As amended, Stats. 1915, chap. 44.) Each employee regularly employed at the state hospitals and each employee regularly employed in the service of any of the state commissions or state boards or in the state printing office who shall have been employed for a period of not less than six months shall be allowed, during each year of his service, a vacation of not less than fifteen working days duration; said vacation to be without loss of pay, and the time allowed for said vacation to be designated by the management of such state hospitals, and by the members of the state commissions and state boards and by the superintendent of state printing. Vacations of state employees.

ACT No. 2665.

(Stats. 1905, page 28.)

Hours of labor of drug clerks.

Limit of ten hours per day.

SECTION 1. As a measure for the protection of public health, no person employed by any person, firm or corporation, shall for more than an average of ten hours a day or sixty hours a week of six consecutive calendar days perform the work of selling drugs or other medicines, or compounding physicians' prescriptions, in any store, establishment or place of business, where and in which drugs or medicines are sold at retail, and where and in which physicians' prescriptions are compounded; *provided*, that the answering of and attending to emergency calls shall not be construed as a violation of this act.

Employers restricted.

SEC. 2. No person, firm or corporation employing another person to do work which consists wholly or in part of selling, at retail, drugs or medicines, or of compounding physicians' prescriptions, in any store, or establishment or place of business where or in which medicines are sold and where and in which physicians' prescriptions are compounded shall require or permit said employed person to perform such work for more than an average of ten hours a day, or sixty hours a week of six consecutive calendar days.

Violations.

SEC. 3. Any person, firm or corporation violating any of the provisions of this act shall be deemed guilty of misdemeanor and shall be punished therefor by a fine not less than twenty dollars nor more than fifty dollars or by imprisonment for not exceeding sixty days, or by both such fine and imprisonment, at the discretion of the court.

Enforcement.

SEC. 5 (added Stats. 1907, pp. 273, 274). The commissioners of the state bureau of labor statistics are [*sic*] hereby authorized, directed and empowered to enforce the provisions of this act.

ACT No. 2838.

(Stats. 1883, page 366.)

Plumbers to be registered.

Registration required.

SECTION 1. Every master or journeyman plumber carrying on his trade shall, under such rules and regulations as the board of health of such county, or city and county, shall

prescribe, register his name and address at the health office of such county, or city and county; and after the said date it shall not be lawful for any person to carry on the trade of plumbing in any county, or city and county, unless his name and address be registered as above provided.

SEC. 2. A list of the registered plumbers shall be published in the yearly report of the health office. List to be published.

ACT No. 2839.

(Stats. 1885, page 12.)

Examination and licensing of plumbers.

SECTION 1. It shall not be lawful for any person to carry on business, or labor as a master or journeyman plumber, in any incorporated city, or in any city and county, in this state until he shall have obtained from the board of health of said city or city and county a license authorizing him to carry on business, or labor as such mechanic. A license so to do shall be issued only after a satisfactory examination by the board of each applicant upon his qualifications to conduct such business or to so labor. All applications for license, and all licenses issued, shall state the name in full, age, nativity, and place of residence of the applicant or person so licensed. It shall be the duty of the secretary of each board of health to keep a record of all such licenses issued, together with an alphabetical index to the same. License required. Examination.

SEC. 2. A list of all licensed plumbers shall be published in the yearly report of the health officer or board of health. List.

ACT No. 2894.

(Stats. 1897, page 90.)

Rate of wages of employees on public works.

SECTION 1. The minimum compensation to be paid for labor upon all work performed under the direction, control, or by the authority of any officer of this state acting in his official capacity, or under the direction, control, or by the authority of any municipal corporation within this state, or of any officer thereof acting as such, is hereby fixed at two (2) dollars per day; and a stipulation to that effect must be made a part of all contracts to which the state, or any $2 a minimum wage.

Proviso. municipal corporation therein, is a party; *provided, however,* that this act shall not apply to persons employed regularly in any of the public institutions of the state, or any city, city and county, or county.

ACT No. 2895.

(Stats. 1897, page 201.)

Bonds for contractors on public works.

Contractors to file bonds.

SECTION 1. (As amended, Stats. 1915, chap. 549.) Every contractor, person, company, or corporation, to whom is awarded a contract for the execution or performance of any building, road, excavating, or other mechanical work for this state, or by any county, city and county, city, town, or district therein, shall, before entering upon the performance of such work, file with the commissioners, managers, trustees, officers, board of supervisors, board of trustees, common council, or other body by whom such contract was awarded, a good and sufficient bond, to be approved by such contracting body, officers or board, in a sum not less than one-half of the total amount payable by the terms of the contract; such bond shall be executed by the contractor, and either at least two sureties or by corporate surety as provided by law, in an amount not less than the sum specified in the bond, and must provide that if the contractor, person, company, or corporation, or his or its subcontractor, fails to pay for any materials, provisions, provender or other supplies, or teams, used in, upon, for or about the performance of the work contracted to be done, or for any work or labor done thereon of any kind, that the surety or sureties will pay the same in an amount not exceeding the sum specified in the bond; *provided,* that such claim shall be filed as hereafter required.

Verified statement of claims.

SEC. 2. (As amended, Stats. 1915, chap. 549.) Any materialman, person, company or corporation furnishing materials, provisions, provender or other supplies used in, upon, for or about the performance of the work contracted to be executed or performed, or any person, company or corporation renting or hiring teams for or contributing to said work to be done, or any person who performed work or labor upon the same, or any person who supplies both work and materials, and whose claim has not been paid by the contractor, company,

or corporation, to whom the contract has been awarded, or by the subcontractor of said contractor, company, or corporation, shall, within ninety days from the time such contract is completed, file with the commissioners, managers, trustees, officers, board of supervisors, board of trustees, common council, or other body by whom such contract was awarded, a verified statement of such claims, together with a statement that the same has not been paid. At any time within six months after the filing of such claim, the person, company, or corporation filing the same may commence an action against the surety or sureties on the bond, specified and required in section one hereof.

SEC. 3. This act shall take effect immediately.

ACT No. 2840b

(Stats. 1913, chap. 81.)

Wiping rags—Sterilizing.

SECTION 1. Every person or corporation who supplies or furnishes to his or its employees for wiping rags, or who sells or offers for sale for wiping rags, any soiled wearing apparel, underclothing, bedding, or parts of soiled or used underclothing, wearing apparel, bedclothes, bedding or soiled rags and cloths, unless the same have been sterilized by a process of boiling for forty minutes in a solution containing five per cent of caustic soda, and unless before such boiling, the sleeves, legs and bodies of garments are ripped and made into flat pieces, is guilty of a misdemeanor. Wiping rags to be sterilized.

SEC. 2. Wiping rags within the meaning of this act are cloths and rags used for wiping and cleaning the surfaces of machinery, machines, tools, locomotives, engines, motor cars, automobiles, cars, carriages, windows, and furniture, and surfaces of articles, appliances and engines in factories, shops, steamships and steamboats, and generally used for cleaning purposes in industrial employments, and also used by mechanics and workmen for wiping from their hands and bodies soil incident to their employment. Wiping rags defined.

SEC. 3. (As amended, Stats. 1917, chap. 766.) Any person or corporation who shall wash, cleanse or launder soiled rags or soiled cloth material for wiping rags by the Not to be cleaned in laundry.

same machinery or appliances by which clothing and articles for personal wear or household use are laundered, shall be guilty of a misdemeanor.

Inspection.

SEC. 4. Every peace officer, health officer or health inspector, upon proper demand and notice of his authority, shall be permitted, during business hours, to enter factories, shops, yards, ships, boats and premises where wiping rags are used, or are kept for sale, or offered for sale, and inspect such wiping rags; and it shall be unlawful for any person, firm, company or corporation to refuse to permit such inspection, or to impede or obstruct such officer during such inspection.

Local regulations.

SEC. 5. Each county, city and county, city and town, may regulate the business of laundering, and sterilizing, and the business of selling wiping rags, by enacting ordinances prohibiting the laundering, sterilizing and sale, and offering for sale, of wiping rags, or cloth material for wiping rags, within their respective jurisdictions, without a permit issued by the board of supervisors of the county, or board of health or health officer of the city and county, city and town, and for the issuance of certificates of inspection of wiping rags offered for sale. Such permit shall be granted as of course on a first application therefor, and may be revoked by the board or officer authorized to issue the same for a violation of this act or for a violation of such ordinance by the holder of such permit. The board, department or officer authorized to issue permits to launder, sterilize, or sell wiping rags shall keep a register of the names and places of business of persons to whom such permits are issued, and the date of issue and number of said permit, and a record of revocation of issued permits.

Packages to be marked.

SEC. 6. Every package or parcel of wiping rags must, before being sold or offered for sale, be plainly marked "sterilized wiping rags," with the number and date of permit given for the conducting of the laundry in which the rags contained in such package or parcel were laundered and sterilized, and the name of the board or officer issuing the permit; or with the name and location of the laundry in which such rags were laundered and sterilized.

Penalty.

SEC. 7. Any person, firm or corporation who shall violate any of the provisions of this act shall be guilty of a misdemeanor.

ACT No. 2935.

(Stats. 1911, chap. 49.)

Railroads—Full crews.

SECTION 1. It shall be unlawful for any common carrier by railroad in the State of California operating more than four trains each way per day of twenty-four hours on any main track or branch line of railroad within this state to run or permit to be run, any passenger, mail or express train propelled or drawn by steam, electricity or other motive power that has not at least the following named employees thereon: One engineer and one fireman for each steam locomotive where such train is propelled or drawn by steam, one electric motorman for each train where such train is propelled or run by electricity, and one motor or power control man for every train where said train is propelled by other motive power than steam or electricity, one conductor, one brakeman, one baggageman; *provided*, that upon any such train upon which baggage is not hauled and on gasoline motor cars, a baggageman need not be employed; *provided, further*, that on any such train where four cars exclusive of railroad officers' private cars, or more than four cars are hauled, exclusive of railroad officers' private cars, two brakemen instead of one shall be employed. Full crew for passenger train.

SEC. 2. (As amended, Stats. 1915, chap. 501.) It shall be unlawful for any common carrier by railroad in the State of California operating more than four trains each way per day of twenty-four hours on any main track or branch line of railroad within this state to run or permit to be run on any main track or branch line operated by it any freight, mixed or work train propelled by steam, electricity or other motive power that has not at least the following employees thereon: one engineer and one fireman for each steam locomotive where such train is propelled or drawn by steam, one motorman for each train where such train is propelled or run by electricity, and one motor or power control man for every train where such train is propelled by motive power other than steam or electricity, one conductor and two brakemen; *provided*, that on any such train running on any track which attains a grade of one per cent or less than one per cent, for a distance Freight trains.

of more than one-half mile, there shall be three brakemen for fifty cars, four brakemen for seventy-six cars and an additional brakeman for every additional twenty-five cars; *provided, further*, that on any such train running on any track which attains a grade of more than one per cent and less than one and one-half per cent, for a distance of more than one-half mile, there shall be three brakemen for fifty cars and an additional brakeman for every twenty-five cars or fraction of twenty-five greater than twelve cars; *provided, further*, that any such train running on a track which attains a grade of more than one and one-half per cent, for a distance of more than one-half mile, there shall be three brakemen for fifty cars and an additional brakeman for every fifteen cars or fraction of fifteen greater than seven cars.

Other trains.

SEC. 3. (As amended, Stats. 1915, chap. 501.) It shall be unlawful for any common carrier by railroad in the State of California operating more than four trains each way per day of twenty-four hours on any main track or branch line of railroad within this state, to run or permit to be run any self-propelled pile driver, car or vehicle which has sufficient power to draw or propel itself and one or more standard cars, or any train propelled or drawn by steam, electricity or other motive power other than those trains described in sections one and two of this act that have not at least the following named employees thereon: one engineer and one fireman for each steam locomotive where such train is propelled by steam, one motorman for every train where such train is propelled or drawn by electricity and one motor or power control man for each train propelled by other motive power than steam or electricity and one steam engineer or one motor or power control man for each self-propelled pile driver or other self-propelled vehicle which has sufficient power to draw or propel itself and one or more standard cars, one conductor and one brakeman; *provided*, that nothing in this act contained shall apply to a locomotive or locomotives without cars, except that each locomotive must have one engineer and one fireman when being moved in train under steam, unless engine is disabled, nor shall this act apply to any relief or wrecking

train in any case where a sufficient number of employees to comply with this section are not available for service on such relief or wrecking train; *provided, however*, that the provisions of section three of this act with reference to self-propelled pile driver, car or vehicle which has sufficient power to draw or propel itself and one or more standard cars shall apply to such self-propelled pile driver, car or vehicle only when self-propelled pile driver, car or vehicle is moved under its own power from one permanent station or permanent siding to place of work where the distance between said station or siding to place of work is one-half mile or more.

Qualifications.

SEC. 4. It shall be unlawful for any such common carrier to employ any person as a steam locomotive engineer who shall not have had at least three years' actual service as a steam locomotive fireman or one year's actual service as a steam locomotive engineer, or to employ any person as a conductor who shall not have had at least two years' actual service as a railroad brakeman on steam or electric railroad other than street railway, or one year's actual service as a railroad conductor, or to employ any person as a brakeman who shall not have passed the regular examination required by transcontinental railroads; *provided*, that nothing in this act contained shall apply to the running or operating of locomotives or motor power cars to and from trains at terminals by hostlers or to the running or operating of steam locomotives or motive power cars to and from engine houses or to the doing of work on steam locomotives or motive power cars at shops or engine houses.

Penalty.

SEC. 5. (As amended, Stats. 1915, chap. 501.) Any violation of this act shall be a misdemeanor, and shall be punished by a fine not exceding five hundred dollars, or by imprisonment in the county jail not to exceed six months, or by both such fine and imprisonment.

Time of strikes.

SEC. 6. (As amended, Stats. 1915, chap. 501.) Nothing in this act contained shall apply to the operation of any train by said common carrier during times of strikes or walkouts, participated in by any of the hereinbefore mentioned employees of such common carriers.

Motor cars.

SEC. 7. (Added, Stats. 1915, chap. 501.) Nothing contained in this act shall be construed or be held to apply to gasoline motor cars operated exclusively on branch lines nor to trains of less than three cars propelled by electricity.

ACT No. 2936.

(Stats. 1911, chap. 484.)

Hours of labor on railroads.

Hours for duty.

SECTION 1. (As amended, Stats. 1913, chapter 226.) It shall hereafter be unlawful for any corporation or receiver operating any line of steam, electric railroad, or other railway, in whole or in part, in this state, or any officer, agent or representative of such corporation to require or knowingly permit any conductor, motorman, engineer, fireman, brakeman, train dispatcher, or telegraph operator to be or remain on duty for a longer period than sixteen consecutive hours. And whenever any such employee of such common carrier shall have been continuously on duty for sixteen hours he shall be relieved and not required or permitted again to go on duty until he has had at least ten consecutive hours off duty; and no such employee who has been on duty sixteen hours in the aggregate in any twenty-four-hour period shall be required or permitted to continue or again go on duty without having had at least eight consecutive hours off duty; *provided*, that no operator, train dispatcher, or other employee who by the use of the telegraph or telephone dispatches, reports, transmits, receives or delivers orders pertaining to or affecting train movements shall be required or permitted to be or remain on duty for a longer period than nine hours in any twenty-four hours, in all towers, offices, places, and stations continuously operated night and day, nor for a longer period than thirteen hours in all towers, offices, places and stations operated only during the daytime, except in case of emergency; when the employees named in this proviso may be permitted to be and remain on duty for four additional hours in a twenty-four-hour period or not exceeding three days in any week; *provided*, that the provisions of this act shall not apply in any case of casualty or unavoidable accident, or the act of God; nor where the delay was the result of a cause not

known to the carrier or its officer or agent in charge of such employee at the time said employee left a terminal, and which could not have been foreseen; *and provided, further*, that the provisions of this act shall not apply to the crews of wrecking or relief trains.

Hours off duty.

SEC. 2. It shall hereafter be unlawful for any corporation or receiver operating any line of railroad in whole or in part in this state, or any officer, agent, or representative of such company or receiver to require or knowingly permit any conductor, engineer, fireman, brakeman, train dispatcher or telegraph operator, who has been on duty for sixteen consecutive hours and who has gone off duty, to again go on duty or perform any work for such receiver or corporation until he has had at least eight hours off duty.

Penalty for violation.

SEC. 3. Any corporation or receiver operating a line of railroad in whole or in part within this state, who shall violate any of the provisions of this act shall be liable to the State of California in a penalty of not less than two hundred dollars nor more than one thousand dollars for each offense, and such penalties shall be recovered and suit therefor shall be brought in the name of the State of California in any court having jurisdiction of the amount in any county into or through which said railroad may pass. Such suit or suits may be brought either by the attorney general of the state or under his direction by the district attorney of any county or city and county in the State of California into or through which said railroad may pass.

Officer of railroad liable.

SEC. 4. Any officer, agent or representative of any corporation or receiver operating any line of railroad in whole or in part within this state, who shall violate any of the provisions of this act shall be deemed guilty of a misdemeanor, and upon conviction therefor shall be punished by a fine of not less than one hundred dollars nor more than five hundred dollars for each offense, or by confinement in the county jail for not less than ten nor more than sixty days, or by both fine and imprisonment, and such person so offending may be prosecuted under this section, either in the county where such person may be at the time of commission of the offense, or in any county where such employee has been permitted or required to work in violation of this act.

Exceptions.

SEC. 5. *Provided*, that the provisions of this act shall not apply in any case of casualty or unavoidable accident or the act of God; nor where the delay was the result of a cause not known to the carrier or its officers or agents in charge of such employee at the time said employee left a terminal, and which could not have been foreseen; *provided, further*, that the provisions of this act shall not apply to the crews of wrecking or relief trains.

ACT No. 3574*a*.

(Stats. 1909, page 209.)

Employment of children—Enforcement of laws.

Illegal employment of minors.

SECTION 1. All minors coming within the provisions of an act entitled "An act regulating the employment and hours of labor of children, prohibiting the employment of minors under certain ages, prohibiting the employment of certain illiterate minors, providing for the enforcement hereof by the commissioner of the bureau of labor statistics and providing penalties for the violation hereof," (approved February 20, 1905,) and found employed and at work without the necessary legal authorization as provided for and required in said act, and whose ages are between the maximum and minimum age limits as described in an act entitled, "An act to enforce the educational rights of children and providing penalties for violation of the act," shall be placed or delivered into the custody of the school district authorities of the county, city, or city and county in which they are found illegally at work.

SEC. 2. The commissioner of the bureau of labor statistics is hereby authorized, directed and empowered to enforce the provisions of this act.

SEC. 3. This act shall take effect immediately.

STATUTES OF 1917.

CHAPTER 65.

Plumbers—Examination, certification and registration.

An act providing for the examination, certification and registration of plumbers, prescribing powers and duties of the state board of health in reference thereto, and penalties for a violation of the provisions hereof.

[Approved April 6, 1917.]

The people of the State of California do enact as follows:

SECTION 1. Certain terms as used in this act shall be construed as follows:

(*a*) The term "master plumber" means one who has an established place of business and works by contract. Terms defined.

(*b*) The term "journeyman plumber" means one who, as an employee, personally installs plumbing work, but does not mean a helper or an apprentice working under the direct personal supervision of a plumber who holds a temporary permit or a certificate of competency issued pursuant to the provisions of this act.

SEC. 2. It shall be unlawful for any journeyman plumber or master plumber in any city or town maintaining a public sewer system to personally install any plumbing or drainage system or portion thereof unless he shall first obtain a temporary permit or a certificate of competency issued pursuant to and as provided for in this act. Certificate of competency.

SEC. 3. In each county in which there is a city or town having a sewer system, the state board of health shall appoint an examining board of three members, one of whom must be a journeyman plumber who has had at least five years' practical experience as a plumber in this state, one a master plumber who has engaged in the plumbing business as a master plumber for at elast five years in this state, and one a regularly licensed and practicing physician of this state. They shall serve for twelve, eighteen and twenty-four months respectively, or until their successors are duly Examining board.

appointed and qualified, and each member shall receive as compensation fifty cents for each applicant examined, such compensation to be paid out of the funds of the state board of health semiannually. Within ten days after their appointment the board shall meet and choose one of its members to act as secretary of the board. The state board of health shall provide each examining board with the necessary application forms, registration books, temporary permits, certification blanks, and all tools, materials and office or shop room in which to properly conduct the examinations. Applications for examination may be made in writing. The state board of health shall adopt such rules and regulations as may be necessary and advisable to carry out the purposes of this act.

Application for certification.

SEC. 4. Application for certification shall be made to the secretary of the examining board. The fee for filing the application shall be two and one-half dollars and shall be paid to the secretary of the examining board and by him to the state board of health to the credit of the contingent fund thereof. In no case shall the filing fee be returned to the applicant. The examining board shall issue to the applicant a temporary permit which shall be valid only until the examination is held and the certificate granted or denied. The examination shall consist of an oral or written examination and practical test and shall be of sufficient strictness to properly test the qualifications of the applicant as to his knowledge of plumbing, house draining and ventilation. If the applicant shows by a proper examination that he is qualified the board shall issue to him a certificate of competency which shall thereafter be renewed every twelve months without the necessity of an examination, upon the payment of an annual fee of two dollars. Any person possessing such a certificate of competency to work in a particular county shall be entitled to work at the plumbing business in any other county in this state upon registering with the examining board thereof. Such registration shall be without cost and without examination.

Examination.

Revocation of certificates.

SEC. 5. Said board may make such rules and regulations as may be necessary to effectively carry out the provisions of this act and may at any time revoke a certificate granted by

it for the violation of any such rules or regulations or of a municipal building, plumbing or sanitary ordinance.

SEC. 6. Nothing in this act contained shall be deemed to repeal or in any manner supersede the authority conferred upon the board of health, department of public health, or health officer, by the charter of any incorporated city or city and county, or the power, under such charter, to enact ordinances providing for the conduct of any of the matters and things embraced within the terms of this act. Provision of city charter.

SEC. 7. Any person violating any provisions of this act shall be guilty of a misdemeanor as defined in section nineteen of the Penal Code. Penalty.

CHAPTER 74.

Elevators in places of employment—Inspection.

An act to provide for the periodical inspection of elevators operated in places of employment in this state; to require a permit for such operation; to make it a misdemeanor to operate such elevator without such permit; and to provide for an injunction against such operation if dangerous to the life or safety of employees; to vest in the industrial accident commission the power to make such inspections and determine the competency of inspectors and require reports of inspections and to issue such permits and prescribe maximum fees therefor.

[Approved April 6, 1917.]

The people of the State of California do enact as follows:

SECTION 1. No power elevator or hand-power elevator, unless exempted in the following section, shall be operated in any place of employment in this state unless a permit, as hereinafter provided, for the operation thereof, shall have been issued by the industrial accident commission, and unless such permit shall remain in full force and effect. The operation of such elevator by any person owning or having the custody, management or operation of such elevator without such permit shall constitute a misdemeanor, and each day of operation of such elevator without such permit shall constitute a separate offense; *provided*, that no prosecution shall Permit to operate elevator.

be maintained where the issuance or renewal of such permit shall have been requested and shall remain unacted upon.

Injunction. Whenever any elevator in any place of employment is being operated without the permit herein required, and is in such condition that its use is dangerous to the life or safety of any employee, the industrial accident commission, a commissioner or any safety inspector thereof, or any person affected thereby may apply to the superior court of the county in which such elevator is located for an injunction restraining the operation of such elevator until such condition shall be corrected. Proof by certification of the said commission that such permit has not been issued, together with the affidavit of any safety inspector of the commission that the operation of such elevator is dangerous to the life or safety of any employee, shall be sufficient ground for the immediate granting of a temporary restraining order.

Exemptions. SEC. 2. Elevators under the jurisdiction of the United States government, and all elevators operated by employers not subject to the safety provisions of the workmen's compensation, insurance and safety act of 1917 and acts amendatory thereof, are exempted from the provisions of this act.

Inspection of elevators. SEC. 3. The industrial accident commission shall cause power elevators to be inspected, not less frequently than twice each year and hand-power elevators not less frequently than once each year. If such elevators shall be found upon such inspection to be in a safe condition for operation, a permit shall be issued by said commission for their operation for not longer than six months for a power elevator or longer than one year for a hand-power elevator, which shall be the permit referred to in section one. If such inspection shall show such elevator to be in an unsafe condition, the commission, or a commissioner, may issue a preliminary order requiring such repairs or alterations to be made to such elevator as may be necessary to render it safe, and may order the use of such elevator discontinued until such repairs or alterations are made or such unsafe conditions are removed. Unless such preliminary order be complied with, a hearing before the commission, a commissioner or referee of such commission shall be allowed, upon request, at which the

Order for repair.

owner, operator or other person in charge of such elevator shall have opportunity to appear and show cause why he should not comply with said order. If it shall thereafter appear to the commission that such elevator is unsafe and that the requirements contained in said preliminary order should be complied with, or that other things should be done to make such elevator safe, the commission may order or confirm the withholding of the permit to operate such elevator and may make such requirements as it deems proper for its repair or alteration or for the correction of such unsafe condition. Such order may thereafter be reheard by the commission or reviewed by the courts in the manner specified by the workmen's compensation, insurance and safety act of 1917 for safety orders, and not otherwise. If the operation of such elevator during the making of repairs or alterations is not immediately dangerous to the safety of employees, the commission may, in its discretion, issue a temporary permit for the operation of such elevator for not to exceed thirty days during the making of such repairs or alterations. Nothing contained in this act shall be construed as a limitation upon the authority of the commission to prescribe or enforce general or special safety orders.

Temporary permit to operate.

SEC. 4. The commission may, in its discretion, cause the inspection herein provided for to be made either by its safety inspectors or by any qualified elevator inspector employed by an insurance company, or may issue its permit, based upon a certificate of inspection issued by qualified elevator inspectors of any municipality, upon proof to its satisfaction that the safety requirements of such municipality are equal to the minimum safety requirements for elevators adopted by the commission; *provided*, that such persons making inspections shall first secure from the commission a certificate of competency to make such inspections. The commission is hereby vested with full power and authority to determine the competency of any applicant for such certificate, either by examination or by other satisfactory proof of qualifications. The commission may rescind at any time, upon good cause being shown therefor, any certificate of competency issued by it to an elevator inspector, or may at any time,

Inspectors.

Certificate of competency.

upon good cause being shown therefor, and after notice and an opportunity to be heard, revoke any permit to operate such elevator. Nothing contained in this act shall be construed to limit the authority of the commission to prescribe or enforce general or special safety orders.

Fees for inspection.

SEC. 5. The commission may fix and collect such fees for the inspection of elevators as it may deem necessary, not to exceed two dollars for each inspection or four dollars per year for each elevator. Such fees must be paid before the issuance of any permit to operate such elevator. No fee shall be charged by the commission where an inspection has been made by an inspector of any insurance company or municipality, if such inspector holds a certificate of competency from said commission. All fees collected by the commission under this act shall be paid into the accident prevention fund.

Report.

SEC. 6. Every inspector so certified shall forward to the commission, on the forms provided by it, within twenty-one days after such inspection is made, a report of such inspection, in default of which his certificate of competency may be canceled.

CHAPTER 108.

Bonds and photographs—Employers to pay for.

An act to require employers to pay the cost of bonds and photographs required of and furnished by employees or applicants for employment.

[Approved April 20, 1917.]

The people of the State of California do enact as follows:

Employer to pay for bond.

SECTION 1. Whenever a bond or photograph of an employee or applicant for employment is required by any employer of labor, said employer shall pay the cost of such bond or photograph.

Penalty.

SEC. 2. Any person violating any provision of this act shall be guilty of a misdemeanor, punishable by a fine not less than twenty-five dollars nor exceeding five hundred dollars.

Enforcement.

SEC. 3. The commissioner of the bureau of labor statistics of the State of California shall enforce the provisions of this act.

CHAPTER 141.

Coercing employees—Purchasing.

An act prohibiting employers of labor from coercing employees in the purchase of things of value, and prescribing a penalty for the violation of the provisions hereof.

[Approved April 26, 1917.]

The people of the State of California do enact as follows:

Unlawful to force employee to patronize employer.

SECTION 1. It shall be unlawful for any employer of labor, or any officer, agent or employee of any employer of labor to make, adopt or enforce any rule or regulation compelling or coercing any employee to patronize said employer, or any other person, firm or corporation, in the purchase of any thing of value; *provided, however*, that nothing herein shall be interpreted as prohibiting any employer of labor from prescribing the weight, color, quality, texture, style, form and make of uniforms required to be worn by their employees.

Penalty.

SEC. 2. Any person, whether as an individual, or as an agent or employee of a firm, or as an officer, agent or employee of a corporation, who shall violate any of the provisions of this act, shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine not exceeding one hundred dollars or by imprisonment in the county jail for a term not exceeding six months, or by both such fine and imprisonment.

CHAPTER 164.

Prison-made goods—Labeling.

An act requiring the labeling of articles offered for sale and intended for personal wear, manufactured in state penitentiaries, reform schools or other institutions supported at public expense, and requiring that notice that such goods are on sale, shall be conspicuously posted in places where said goods are offered for sale.

[Approved May 5, 1917.]

The people of the State of California do enact as follows:

Articles must be labeled.

SECTION 1. No person, persons, firm or corporation, by themselves, their agents or employees shall sell, offer for sale or expose for sale, or have in his or their possession for sale,

any article intended for personal wear which was manufactured at a state penitentiary, state reform school or at any other institution supported at public expense and located without the boundaries of the State of California, unless said article shall have affixed, stamped or imprinted thereon, a label in letters three-eighths of an inch in height, designating the state penitentiary, state reform school or other public institution, where said article was manufactured.

Manufactured articles for sale.

SEC. 2. No person, persons, firm or corporation, by themselves, their agents or employees shall sell, offer for sale or expose for sale, or have in his or their possession for sale, any article intended for personal wear which was manufactured at a state penitentiary, state reform school or at any other institution supported at public expense and located without the boundaries of the State of California unless there is kept on exhibition in a conspicuous place, where said article is exposed or offered for sale, a notice at least twelve inches in length by six inches in height, stating that goods so manufactured are on sale there.

Penalty.

SEC. 3. Whoever shall knowingly violate any of the provisions or sections of this act shall be deemed guilty of a misdemeanor, and shall, upon conviction thereof, be punished for the first offense by a fine of not less than twenty dollars nor more than one hundred dollars; or by imprisonment in the county jail for not less than ten days and not exceeding thirty days; and for each subsequent offense by a fine of not less than fifty dollars nor more than two hundred dollars, or by imprisonment in the county jail for not less than twenty days nor more than one hundred days, or by both such fine and imprisonment, at the discretion of the court.

Duty of district attorney.

SEC. 4. It shall be the duty of the district attorney of each and every county in this state, upon application, to attend to the prosecution in the name of the people of any action brought for the violation of any of the provisions of this act within his district.

CHAPTER 172.

Gratuities—Prohibiting employers or agents receiving from employees.

An act to prohibit employers or certain agents or representatives of employers from demanding or receiving any money or other consideration from an employee as a condition of employment or of continuing to perform services in such employment; and to provide for the enforcement of this act by the commissioner of the bureau of labor statistics; and to provide a penalty for the violation thereof; and to repeal an act entitled "An act to forbid managers, superintendents, foremen and other persons having authority from their respective employers to hire, employ, or direct the services of other persons in such employments, to demand or receive any fee, gift or other remuneration in consideration of any such hiring, employment or permission to continue to perform work or services in such employment; and to provide for the enforcement of this act by the commissioner of the bureau of labor statistics," approved April 12, 1915.

[Approved May 5, 1917.]

The people of the State of California do enact as follows:

Employer receiving gifts, etc., guilty of misdemeanor.

SECTION 1. Any employer or agent or representative of an employer or other person having authority from his employer to hire, employ or direct the services of other persons in the employment of said employer, who shall demand or receive directly or indirectly from any person then in the employment of said employer, any fee, gift or other remuneration or consideration, or any part or portion of any tips or gratuities received by such employee while in the employment of said employer, in consideration or as a condition of such employment or hiring or employing any person to perform such services for such employer or of permitting said person to continue in such employment, is guilty of a misdemeanor and upon conviction thereof shall be fined not more than three hundred ($300.00) dollars for such offense, or by imprisonment for not more than six months or by both fine and imprisonment. All fines imposed

or collected under provision of this act shall be paid into the state treasury and credited to the contingent fund of the bureau of labor statistics.

Employment agencies excepted.

SEC. 2. Nothing contained in this act shall be construed to apply to employment agencies or employment agents licensed and operating under the laws of the State of California.

Enforcement.

SEC. 3. This act shall be enforced by the commissioner of the bureau of labor statistics.

SEC. 4. An act entitled "An act to forbid managers, superintendents, foremen and other persons having authority from their respective employers to hire, employ, or direct the services of other persons in such employments to demand or receive any fee, gift, or other remuneration in consideration of any such hiring, employment or permission to continue to perform work or services in such employment; and to provide for the enforcement of this act by the commissioner of the bureau of labor statistics," approved April 12, 1915, and designated chapter fifty-six of the statutes of 1915, is hereby repealed.

CHAPTER 202.

Steam boilers—Inspection.

An act to provide for the periodical inspection of steam boilers, with certain exceptions, operated in this state; requiring a permit, to be issued by the industrial accident commission, for the operation of such boilers; making it a misdemeanor to operate such boilers without such permit; and allowing an injunction against such operation without such permit where dangerous to the life or safety of employees; providing for a hearing before the industrial accident commission prior to refusal of a permit; providing for the determination of competency of inspectors making such inspections and requiring reports of inspections; and prescribing maximum fees for such inspections.

[Approved May 9, 1917.]

The people of the State of California do enact as follows:

Permit required to operate steam boiler.

SECTION 1. No steam boiler, unless exempted in the following section, shall be operated in the State of California unless there shall have been issued for the operation of such boiler a permit, as hereinafter provided, and unless such

permit shall remain in full force and effect. Such permit must be posted under glass in a conspicuous place on or near the boiler covered by it. The violation of this section by any person owning or having the custody, management or operation of such boiler without such permit shall be a misdemeanor and the operation of such boiler without such permit shall constitute a separate offense for each day that it shall be so operated; *provided*, that no prosecution shall be maintained where the issuance or renewal of such permit shall have been requested and shall remain unacted upon. If the operation of such boiler without such permit shall constitute a serious menace to the lives or safety of persons employed about it, the industrial accident commission, a commissioner or any safety inspector thereof, or any person affected thereby, may apply to the superior court of the county in which such boiler is situated for an injunction restraining the operation of said boiler until such condition shall be corrected or such permit secured. The certification of the industrial accident commission that no permit exists for the operation of such boiler, and the affidavit of any such inspector that its operation constitutes a menace to the life or safety of any person or persons employed about it, shall be sufficient proof to warrant the immediate granting of a temporary restraining order.

Violation.

Injunction restraining operation.

SEC. 2. The following boilers are exempt from the provisions of this act:

(1) Boilers under the jurisdiction or inspection of the United States government, and all other boilers operated by employers not subject to the workmen's compensation, insurance and safety act of 1917, and acts amendatory thereof.

Boilers exempt.

(2) Boilers of twelve horsepower or less, on which the pressure does not exceed fifteen pounds per square inch.

(3) Automobile boilers and boilers on road motor vehicles.

SEC. 3. The industrial accident commission shall cause to be inspected, internally and externally, not less frequently than once in each year, every steam boiler subject to the provisions of this act. If such boiler be found upon such inspection to be in a safe condition for operation, a permit shall be issued by the commission for its operation for not longer than

one year, which shall be the permit referred to in section one of this act. If any such inspection shall show such boiler to be in an unsafe or dangerous condition, the commission, or a commissioner, may issue a preliminary order requiring such repairs or alterations to be made to such boiler as may be necessary to render it safe, and may order the use of such boiler discontinued until such repairs or alterations are made or such dangerous or unsafe conditions are remedied. Unless such preliminary order be complied with, a hearing before the commission, a commissioner or referee of such commission, shall be allowed, upon request, at which the owner, operator or other person in charge of said boiler shall have opportunity to appear and show cause why he should not comply with said order. If it shall thereafter appear to the commission that such boiler is unsafe and that the requirements contained in said preliminary order should be complied with, or that other things should be done to make said boiler safe, the commission may order or confirm the withholding of the permit to operate said boiler, and may make such requirements as it deems proper for the repair or alteration of said boiler, or the correction of such dangerous and unsafe conditions. Such order may thereafter be reheard by the commission, or reviewed by the courts, in the manner specified by the workmen's compensation, insurance and safety act of 1917 for safety orders, and not otherwise. It may also, in its discretion, issue and renew temporary permits for not to exceed thirty days each, pending the making of replacements or repairs. Nothing contained in this act shall be construed to limit the authority of the commission to prescribe or enforce general or special safety orders.

Hearing.

Temporary permits.

Who may inspect.

SEC. 4. The commission may cause the inspection herein provided for to be made either by its safety inspectors or by any qualified boiler inspector employed by any county, city and county, city, or insurance company, or by any boiler inspector employed by any person or corporation for the purpose of testing his own boilers only; *provided*, that such persons making inspections other than such safety inspectors shall first secure from the said industrial accident commission a certificate of competency to make such inspections. The

industrial accident commission is hereby vested with full power and authority to determine the competency of any applicants for such certificate, either by examination or by other satisfactory proof of qualifications. The commission may rescind at any time, upon good cause being shown therefor, any certificate of competency issued by it to a boiler inspector, or may at any time, upon good cause being shown therefor, and after notice and an opportunity to be heard, revoke any permit to operate such steam boiler. Certificate of competency.

SEC. 5. The industrial accident commission shall fix and collect fees for the inspection of steam boilers covered by this act, not exceeding two dollars and fifty cents for each external inspection and seven dollars and fifty cents for each internal inspection per annum. Such fees must be paid before the issuance of any permit to operate the said boiler. No fee shall be charged by the industrial accident commission where an inspection, as herein provided, has been made by an inspector holding a certificate of competency from said commission and employed by any county, city and county, city, insurance company, or by any person or corporation for the purpose of testing his own boilers only. All fees collected by the commission under this act shall be paid into the accident prevention fund. Fees.

SEC. 6. Every inspector so certified shall forward to the commission on the forms provided by it, within twenty-one days after such inspection is made, a report of such inspection, in default of which the certificate of competency may be canceled. Report of inspection.

CHAPTER 574.

Wages—Semimonthly pay day for laborers in certain counties.

An act to provide for semimonthly pay days of laborers in the employ of any county of the first or second class.

[Approved May 22, 1917.]

The people of the State of California do enact as follows:

SECTION 1. The wages of all employees of any county of the first or second class, whose compensation is based on a daily rate of payment, shall be paid at not less than two Semimonthly pay days.

stated times in each calendar month, and at substantially equal intervals.

Penalty. SEC. 2. Any officer, employer or agent of any county of the first or second class, or of any department or institution thereof, who fails, refuses or neglects to comply with the requirements of this act, in so far as the payments are prescribed or controlled by him, is guilty of a misdemeanor.

CHAPTER 745.

Towels—Common use prohibited.

An act to prevent the keeping of towels for common use in public places and prescribing penalties for violations of the provisions thereof.

[Approved June 1, 1917.]

The people of the State of California do enact as follows:

Towel for common use unlawful. SECTION 1. No person, firm or corporation conducting, operating, having charge of, or control of, any hotel, restaurant, factory, store, barber shop, office building, school, public hall, railroad train, railway station, boat, or any other public place, room or conveyance, shall maintain or keep in or about any such place any towel for common use.

Common use defined. SEC. 2. For the purpose of this act the term "common use" when applied to a towel shall be defined as its use by, or for, more than one person without its being laundered by a process involving exposure to boiling water or steam between consecutive uses of such towel; *provided*, that the state board of health may by resolution prescribe other acceptable methods of sterilization which may be used in place of the methods specified in this act.

Duty of health officers. SEC. 3. It shall be the duty of the state board of health and of all health officers of counties, municipalities and health districts, to enforce the provisions of this act.

Penalty. SEC. 4. Any person, firm or corporation violating any of the provisions of this act is guilty of a misdemeanor and shall be liable to a fine not exceeding twenty-five dollars for each offense.

CHAPTER 747.

Service letters—Public utilities to furnish.

An act to provide for the furnishing by public utility corporations, to employees thereof leaving their service, of service letters.

[Approved June 1, 1917.]

The people of the State of California do enact as follows:

Service letters by corporations.

SECTION 1. Every public utility corporation shall, upon request therefor made to it by any employee thereof leaving its service, give to such employee a letter covering and stating the period during which such service was and kind of service rendered to such corporation by such employee.

Penalty.

SEC. 2. Every public utility corporation violating the provisions of this act shall, for each offense, suffer a fine of not less than twenty-five dollars, nor more than one hundred dollars; which fine shall be collected by the district attorney of the county in which such corporation has its principal place of business.

CHAPTER 783.

Hours of rest—Employees of municipal corporations.

An act providing for hours of rest for persons employed by municipal corporations during more than one hundred twenty hours per week, and prescribing penalties for violations hereof.

[Approved June 1, 1917.]

The people of the State of California do enact as follows:

Municipal employees entitled to rest period.

SECTION 1. Any person in the employ of a municipal corporation and whose hours of labor exceed one hundred twenty hours in a calendar week of seven days, shall be entitled to be off duty at least three hours during every twenty-four hours for the purpose of procuring meals and no deduction of salary shall be made by reason thereof.

Penalty.

SEC. 2. Any officer or agent of a municipal corporation having supervision and control of the employees referred to in section one hereof who shall violate the provisions hereof shall be guilty of a misdemeanor and shall be punishable as provided in section nineteen of the Penal Code.

DIGEST OF APPRENTICE LAWS.

Who may indenture.—A minor of fourteen years of age or over may be bound by his father, or by his mother or guardian in case of the father's death or incompetency, or where the father has wilfully abandoned his family, for one year without making suitable provision for their support, or is habitually intemperate or is a vagrant; by an executor who by the will of the father is directed to bring up the child to a trade or calling; by the mother alone if the child is illegitimate; or by the judge of the superior court if the minor is poor, homeless, chargeable to the county or state, or an outcast who has no visible means of obtaining an honest livelihood. If a minor has no parent or guardian competent to act he may, with the approval of the superior court, bind himself. The minor's consent must be expressed in the indenture and testified to by his signing the same.

Term.—A male may be bound until twenty-one and a female until eighteen years of age.

Duty of master.—The master must in the case of an orphan or homeless minor cause the apprentice to be taught reading, writing, and the ground rules of arithmetic, including ratio and proportion, must give him the requisite instruction in the different branches of his trade, and, at the expiration of his term of service, must give him fifty dollars in gold and two new suits of clothes to be worth in the aggregate at least sixty dollars. In all cases the master must pay and deliver to the apprentice the money, clothes, and other property to which he is entitled under the indenture.

Interference.—It is unlawful to aid, entice, counsel, or persuade an apprentice to run away, or to employ, harbor, or conceal him, knowing him to be a runaway.

Sources: Civil Code, sections 264 to 276; Penal Code, section 646.

DIGEST OF MECHANICS' LIEN LAWS.

For what given.—A lien may be had to secure payment for labor performed or materials furnished in or for the construction, alteration, addition to, or repair of, any building or other structure; on any railroad, vessel, wharf, bridge, ditch, flume, well, tunnel, fence, machinery, wagon road, mine, or mining claim; for labor done in, with, about, or upon any threshing machine, engine, wagon, or other appliance used in threshing machine, engine, wagon, or other appliance used in threshing; for cutting, hauling, rafting, or drawing logs, bolts, or other timber; for grading or improving any town lot or the street or sidewalks in front of or adjoining the same; for labor or skill expended for the improvement or safe-keeping or carriage of any article of personal property; and for service on vessels and work done in laundering establishments.

Who may have lien.—Contractors, subcontractors, materialmen, and all persons performing manual labor; mates and seamen of a ship; laundry proprietors.

Subject property.—The land upon which any building or improvement is constructed, or so much as may be required for convenient use and occupation, is subject to the lien, if owned by the person causing such construction at the commencement of the work, but only to the extent of his interest; vessels and their freightage; threshing machines, engines, wagons, etc.; logs and other timber; personal property lawfully in the hands of any mechanic, repair man, or caretaker; laundry work.

Amount of lien.—In general, for the value of the labor done and material furnished. A contractor's lien secures the amount named in the contract, such lien to operate in favor of all parties claiming recovery. No lien, except that of the contractor, may be diminished by any indebtedness or set-off in favor of the owner and against the contractor.

Contract.—Contracts involving a sum exceeding one thousand dollars must be in writing and must be filed in the office of the county recorder. Work must be done at the instance of the owner or of his agent, which term includes every contractor, subcontractor, architect, builder, or any person in charge of any mining claim or claims, whether as lessee or otherwise.

Work will be presumed to have been done at the instance of the owner, unless within ten days after he obtains knowledge of the fact that such work is begun or intended he gives notice that he will not be responsible for the same.

Notice.—Notice may be given at any time by any claimant other than an original contractor, whereupon it shall be the owner's duty to withhold from the contractor an amount equal to the claim made. Personal property held under lien, may be sold after two months on ten days' notice.

Filing.—Within ten days after the completion of a contract, or within forty days after cessation from labor on any unfinished contract, the owner must file a notice setting forth dates and descriptions of property, work done, etc., or be estopped from making the defense that any lien was filed after the expiration of the time fixed. Every original contractor has sixty days, and other claimants have thirty days, after the filing of the above notice by the owner, in which to file liens. Liens on mining claims and city lots must be filed within thirty days after the completion of the work. All claims of lien must be filed within ninety days after the completion of the work for which they are claimed.

Limitation.—No lien binds any building, improvement, or mining claim for longer than ninety days after filing unless proceedings thereon have been commenced; or if a credit be given, within ninety days after such credit expires, which may in no case be longer than two years from the time the work was completed. Threshers' liens must be proceeded on within ten days and lumbermen's liens within thirty days after the completion of the labor for which claim is made. Liens on vessels continue for one year.

Rank.—Mechanics' liens are preferred to any lien or other incumbrance attaching subsequently to the commencement of the work for which given; also to any earlier incumbrance of which the lienholder had no notice and which was unrecorded at such commencement of work. Such liens have, among themselves, the following rank, and require satisfaction in the order named: First, liens of persons performing manual labor; second, liens of persons furnishing materials; third, liens of subcontractors; fourth, liens of original contractors. Liens on vessels are prior to all other claims.

Sources: Constitution; Code of Civil Procedure, sections 813 to 825, 1183 to 1202; Civil Code, sections 3051 to 3065, acts 1911, chap. 435.

DIGEST OF CONVICT LABOR LAWS.

Control.—A board of five directors appointed by the governor is charged with the management of the state prison and the employment of convicts. Monthly inspections by at least three directors are directed.

Boards of county supervisors have jurisdiction of the employment of county convicts.

Systems of employment.—The public-account, state-use, and public-works-and-ways systems are adopted. The letting of contracts for prison labor is forbidden.

Regulations.—The manufacture of jute fabrics, the crushing of rock for road material, and the manufacture of such articles, materials and supplies needed in any public institution of the state or political subdivision thereof are provided for. At least twenty convicts must be employed on the public roads at the state prisons.

Prison rules prescribe the number of hours of labor required in each and every day during a convict's term of imprisonment.

Punishments may be inflicted only by the order and under the direction of wardens.

Discharged prisoners receive their earnings, if any, and if this sum is not sufficient for present needs, each one receives five dollars, a suit of clothing, and transportation to the place of sentence or other place of equal cost of travel.

County convicts may be employed on public works and ways, or in other places for the benefit of the county.

Goods.—No convict-made goods may be sold in the state except those whose sale is specially sanctioned by law.

The sale of jute and hemp grain bags is at a price fixed by the prison directors on a basis prescribed by statute.

Crushed rock is sold on orders for highway and other purposes, at a price of not less than thirty cents per ton, preference being given to orders from the state bureau of highways.

Manufactured articles, materials and supplies to be sold to public institutions at prices to be fixed by prison directors and board of control.

Sources: Constitution; Penal Code, sections 679*a*, 1613, 1614, pages 890-896; acts of 1907, chapters 317, 473; acts of 1911, chapters 56 and 570; acts 1913, chapters 585, 588.

DECISION UPHOLDING THE CONSTITUTIONALITY OF THE CHILD LABOR LAW.

Supreme Court of California, July 9, 1906.

(In Bank. Crim. No. 1322.)

IN THE MATTER OF THE APPLICATION OF J. M. SPENCER FOR A WRIT OF HABEAS CORPUS.

The petitioner was arrested and confined upon a charge of violating sections 2 and 4 of the act of February 20, 1905, regulating the employment and hours of labor of children and prohibiting the employment of illiterate minors and of minors under certain ages. (Stats. 1905, p. 11.) The return to the preliminary writ shows that the petitioner was arrested and taken into custody upon four several complaints, relating to four different children, each complaint charging him with employing a child under fourteen years of age in the workshop and boiler-room of a steamer, the child not then having a permit to work from the judge of the juvenile court of the county, and the time of such employment not being the time of the vacation of the public schools.

The second clause of section 2 of the act provides that no child under fourteen years of age shall be employed in any mercantile institution, office, laundry, manufactory, workshop, restaurant, hotel, or apartment house, or in the distribution or transmission of merchandise or messages; provided, that upon the sworn statement of the parent that the child is over twelve years of age and that the parent or parents are unable, from sickness, to labor, the judge of the juvenile court, in his discretion, may issue a permit allowing such child to work for a specific time; and provided, further, that during the time of the regular vacation of the public schools of the city or county, any child over twelve years of age may work at any of the prohibited occupations, upon a permit from the principal of the school attended by the child during the immediately preceding term. Section 4 of the act declares that a violation of any of the provisions of the act shall be a misdemeanor. The complaints charge violation of these provisions.

Several objections on constitutional grounds are made to the validity of the act. It is claimed that it is special law for the punishment of crime, where a general law could be made applicable, and therefore, contrary to sections 2 and 33 of article IV of the constitution of California; that it is not of uniform operation, but is discriminatory; and hence in conflict with sections 11 and 21 of article I; and that it would deprive persons of the right to acquire and possess property, thus violating section 1 of article I of the state constitution and the fourteenth amendment to the constitution of the United States.

The presumption always is that an act of the legislature is constitutional, and when this depends on the existence, or non-existence, of some fact, or state of facts, the determination thereof is primarily for the legislature, and the courts will acquiesce in its decision, unless the error clearly appears. (*Bourland* vs. *Hildreth*, 26 Cal. 184; *University* vs. *Bernard*, 57 Cal. 612; *In re Madera Irr. Dist.*, 92 Cal. 310; *Sinking Fund Cases*, 99 U. S. 718; Tiedman on Police Power, Vol. I, p. 10, note; Cooley, Const. Lim., 7th ed., 228.)

"Every possible presumption is in favor of the validity of a statute, and this continues until the contrary is shown beyond a rational doubt. One branch of the government can not encroach on the domain of another without danger. The safety of our institutions depends in no small degree on a strict observance of this salutary rule." (*Sinking Fund Cases, supra.*)

"The delicate act of declaring an act of the legislature unconstitutional and void should never be exercised unless there is a clear repugnance between the statute and the organic law. * * * In a doubtful case the benefit of the doubt is to be given to the legislature; but it is to be remembered that the doubt to which this rule of construction refers is a reasonable doubt as distinguished from vague conjecture or misgivings." (*Bourland* vs. *Hildreth, supra.*)

From their tender years, immature growth, and lack of experience and knowledge, minors are more subject to injury from excessive exertion and less capable of self-protection than adults. They are therefore peculiarly entitled to legislative protection, and form a class to which legislation may be exclusively directed without falling under the constitutional prohibitions of special legislation and unfair discrimination.

The first objection to the validity of the part of the section above stated is that it is discriminatory and specially because it does not prohibit such employment of minors in all occupations, but only in those specially mentioned; that work at other places, of which saloons, barber shops, railroads, ferries, and warehouses are specified by counsel as instances, would be equally injurious, and that in order to be general and uniform they should be included in the prohibition. The objection is twofold: first, that the legislation constitutes an unfair discrimination against the particular trades mentioned; second, that it unduly and without reasonable cause restricts the right of minors to work at any and every occupation in which they may wish to engage. There is nothing in the act to indicate a purpose on the part of the legislature to make use of the laudable object of protecting children as a mere pretense under which to impose burdens upon some occupations or trades and favor others. It appears to have been framed in good faith and for the purpose of promoting the general welfare by protecting minors from injury by overwork and facilitating their attendance at schools. The legislature may undoubtedly forbid the employment of children under the age of fourteen years at any regular occupation if the interests of the children and the general welfare of society will be thereby secured and promoted. The power to forbid their employment in certain occupations and not in all depends on the question whether or not any appreciable number of children are employed in the callings not forbidden, and whether or not those callings are injurious to them, or less injurious than those forbidden. If certain occupations are especially harmful to young children and others are not so, there can be no serious doubt that it is within the power of the legislature to forbid their employment in one class and permit it in the other. The difference in the results would justify the clasification with a view to the difference in the legislation. Also, if children are employed in certain occupations to their injury and are not employed at all in others, or so infrequently that the number is inappreciable and insignificant, the occupations regularly employing them have no ground to complain of discrimination. They compose the entire class to which the legislation is directed, the class which causes the injury to be prevented. And upon the facts assumed neither the children engaged in the occupation in which they are employed nor the persons would be affected by the

prohibition as to other occupations. The preliminary questions as to the effect of the specified occupations on the children and the number of children engaged therein, are questions of fact for the legislature to ascertain and determine. It has determined that the facts exist to authorize the particular legislation. If any rational doubt exists as to the soundness of the legislative judgment upon the existence of the facts, that doubt must be resolved in favor of the legislative action and the law must accordingly be held to be valid in these respects. The specifications of forbidden callings are broad and comprehensive. Even if these, which as counsel assert, are omitted from the classification, we can not say that a saloon is not a "mercantile institution," it being a place where merchandise is sold; nor that a barber shop is not a "workshop," it being a place where a handicraft is carried on; nor that ferries and railroads are not engaged in the "distribution or transmission of merchandise or messages." At all events, in view of the rule that a statute must be liberally construed to the end that it may be declared constitutional rather than unconstitutional (*People* vs. *Hayne*, 83 Cal. 117; 26 Am. & Eng. Encyc. of Law, 640), we would not give the description of forbidden occupations this narrow construction in order to make the law invalid. The decision of the legislature that the specified occupations are more injurious to children than others not mentioned and hence the subject of special regulation, and that they constitute practically all the injurious occupations in which children are employed at all, and therefore the only cases in which regulation is needed, is not so manifestly incorrect, not so beclouded with doubt concerning its accuracy, as to justify the court in declaring it unfounded and the law, consequently, invalid.

There is a proviso to this clause of the section, to the effect that if either parent of such child makes a sworn statement to the judge of the juvenile court of the county, that the child is over twelve years of age, and that the parent or parents are unable, from sickness, to labor, such judge, in his discretion, may issue a permit allowing such child to work for a time to be specified therein. There is no force to the objection that this discriminates against orphans and abandoned children. The exception allowed by the proviso is not made for the direct benefit of the child, but for the sick parent. It is a burden put upon the child because of the special necessity of his case which justifies the different provision respecting him. The legislature deems the necessity of allowing

the child to work to aid in the support of the sick parent, sufficient to outweigh the benefits which would otherwise accrue from the education and protection of the child during such inability. If there are no parents whose necessities the child's labor could alleviate, the reason for this exception is wanting. The provision seems a reasonable one in view of the conditions upon which, alone, it can apply.

There is a further proviso or exception, to the effect that any child over twelve years old may work at the prohibited occupations during the time of the regular vacations of the public schools of the city or county, upon a permit from the principal of the school attended by the child during the term next preceding such vacation. This does not, as counsel contends, give the principals of the public schools the exclusive power to give the contemplated permits. Its true meaning is that the permit is to be given by the principal of the school which the child has attended, whether the school is public or private, but that it can extend only to the time of the public school vacation. This act was approved February 20, 1905. Its provisions relating to attendance upon schools, and those of section 1 of the act of March 24, 1903 (Stats. 1903, 388), with the amendment of March 20, 1905 (Stats. 1905, 388), to said section 1 must be considered together. The act of 1903, in effect, requires all children to attend, either the public schools, or a private school, during at least five months of the time of the sessions of the public schools. The amendment of March 25, 1905, extends the time of such compulsory attendance so as to embrace the whole period of the public school session. Therefore, if the parents, guardians, or custodians of a child choose to send it to a private school, it must attend thereon at least during the time the public schools are in session. A permit may then be obtained for it to work during the vacation of the public schools, if its interests or necessities so require, without subjecting it to conditions substantially different from those affecting the children attending the public schools. There is no discrimination. The legislature has the power to make such reasonable regulations as these with respect to the time of the vacation of schools, whether public or private, in the interest of the public welfare and the welfare of the children.

A third clause of section 2 declares that no child under sixteen years of age shall work at any gainful occupation during the hours that the public schools are in session, unless such child can read English at sight and write simple English sentences, or is attending night school. The first clause of section 2 provides that no minor under sixteen shall work in any mercantile institution, office, laundry, manufacturing establishment, or workshop, between ten o'clock in the evening and six o'clock in the morning. Section 5 of the act further provides that nothing in the act is to be construed to prevent the employment of minors at agricultural, viticultural, horticultural or domestic labor, during the time the public schools are not in session, or during other than school hours. The petitioner's contention with respect to the first and last clause of section 2 is that they constitute such important parts of the statute that it can not be presumed that the legislature would have adopted the other parts thereof if it had been aware of the invalidity of these particular provisions and hence the whole act must fall. We can not accede to this proposition. They are separable and independent provisions and are not so important to the entire scheme as to justify us in concluding that the legislature would have refused to adopt the other parts without these, and thereby to declare the entire statute invalid.

Nor can it be conceded that these provisions are invalid. The principles already discussed apply with equal force to the first clause of the section. The proviso concerning illiterate children is a reasonable regulation to prevent those having control of such children from working them to such an extent as to hinder them from acquiring, or endeavoring to acquire, at least the beginning of an education before arriving at the age of sixteen years. The exemption of domestic labor and the several kinds of farming from the operation of the act is not an unreasonable discrimination. Such work is generally carried on at the home and as a part of that general home industry which should not be too much discouraged, and it is usually under the immediate care and supervision of the parents or those occupying the place of parents, and hence is not liable to cause so much injury. These circumstances distinguish them from the prohibited industries and is a sufficient reason for the exemption.

We find no reasonable ground for declaring the law invalid.

The petition is denied and the petitioner remanded to the custody of the officer.

SHAW, J.

We concur:

SLOSS, J.; ANGELLOTTI, J.; LORIGAN, J.; BEATTY, C. J.

McFARLAND, J., *concurring:*

I concur in the judgment, and in what is said by Mr. Justice Shaw in his opinion; but I do not concur in some of the quotations which he makes from other cases, and particularly in that quotation in which it is stated that the presumption in favor of the validity of the statute "continues until the contrary is shown beyond a rational doubt." That is, in my opinion, too strong a statement of a rule.

McFARLAND, J.

DECISION UPHOLDING THE CONSTITUTIONALITY OF SECTION 273, PENAL CODE.

Supreme Court of California, July 9, 1906.

(In Bank. Crim. No. 1331.)

IN THE MATTER OF THE APPLICATION OF HENRY WEBER FOR A WRIT OF HABEAS CORPUS.

The petitioner was arrested and confined for an alleged violation of section 273 of the Penal Code. The return shows that he is in custody upon separate complaints relating to different children. Each complaint charges that the defendant did wilfully and unlawfully take, receive, hire, employ and use a certain male child, naming him, under the age of sixteen years, in the business of scaling the boilers of a steamer, the said business being then and there dangerous to the life and limb of said child. The petition for a writ of habeas corpus is based upon the proposition that the law under which the complaint was made is unconstitutional and void. Section 273 refers to the preceding section 272, and it is necessary to state the substance, at least of both sections.

Section 272, so far as material, is as follows: "Any person * * * having the care, custody, or control of any child under the age of sixteen years, who exhibits, uses, or employs, or in any manner, or under any pretense, sells, apprentices, gives away, lets out, or disposes of any such child to any person, * * * for or in any business, exhibition, or vocation, injurious to the health, or dangerous to the life or limb of such child, or in or for the vocation, occupation, service, or purpose of singing, playing on musical instruments, rope or wire walking, dancing, begging, or peddling, or as a gymnast, acrobat, contortionist, or rider, in any place whatsoever, or for or in any obscene, indecent or immoral purposes, exhibition or practice whatsoever, or for or in any mendicant or wandering business whatsoever, or who causes, procures, or encourages such child to engage therein, is guilty of a misdemeanor. * * * Nothing in this section contained applies to or affects the employment or use of any such child, as a singer or musician in any church, school, or academy, or the teaching or learning of the science or practice of music; or the employment of any child as a

musician at any concert or other musical entertainment, on the written consent of the mayor of the city or president of the board of trustees of the city or town where such concert or entertainment take place." (Stats. 1905, p. 759.)

Section 273 is as follows: "Every person who takes, receives, hires, employs, uses, exhibits, or has in custody, any child under the age, and for any of the purposes mentioned in the preceding section, is guilty of a like offense and punishable by a like punishment as there in provided." (Stats. 1905, p. 759.)

The contention of the petitioner is that these provisions contain an arbitrary and unreasonable classification, and, consequently, not of uniform operations, and that it constitutes a special law for the punishment of crimes, where a general law could be made applicable. It is said that only a certain portion of the minor children of the state are affected by the act, namely, those who are under sixteen years of age, and that this is an arbitrary discrimination between those who are over that age and those who are under that age; that any child over the age may enjoy his natural privilege of working for his own support as he pleases, while those under that age are prohibited therefrom. There is no sound reason for any such criticism. The same reasoning might be applied to a large number of laws which are universally conceded to be valid and constitutional. The law providing that a male person under twenty-one years of age is a minor, subject to the legal disabilities of minority, might be rendered unconstitutional by the same process of reasoning. It is competent for the legislature to provide regulations for the protection of children of immature years. The growth of a child is gradual and the age of maturity varies with different children. It is impossible for any person to fix the exact time when a child is capable of protecting itself. The legislative judgment in regard to the age at which such regulations shall become applicable to the child can not be interfered with by the courts.

It is also stated that the law makes an unfair discrimination by allowing the employment of children as singers or musicians in churches, schools, or academies. The ground of this objection is that such employment, so far as the court can see, may be as injurious to the health or morals or as dangerous to the life or limb of the child as those which are prohibited in the law, and that no prohibition is lawful under the constitution unless it extends to all employments which are equally injurious. In matters of this kind

the legislature has large discretion. It must determine the degree of injury to health and morals which the different kinds of employment inflict upon the child, and the corresponding necessity for protecting the child from the effects thereof, and unless its decision in that regard is manifestly unreasonable, there is no ground for judicial interference. We do not think the law in question so unreasonable as to require us to hold it unconstitutional.

The petition is denied and the petitioner is remanded to the custody of the officer.

SHAW, J.

We concur:

SLOSS, J.; ANGELLOTTI, J.; HENSHAW, J.; MCFARLAND, J.; LORIGAN, J.; BEATTY, C. J.

DECISION UPHOLDING THE CONSTITUTIONALITY OF THE EIGHT-HOUR LAW IN UNDERGROUND MINES AND SMELTERS.

Supreme Court of California, December 23, 1909.

(In Bank. Crim. No. 1539.)

IN THE MATTER OF THE APPLICATION OF FRED J. MARTIN FOR A WRIT OF HABEAS CORPUS.

Upon the application of Fred J. Martin, a writ of habeas corpus was issued by this court. Martin has been arrested upon a charge of violating the terms of a statute entitled "An act regulating the hours of employment in underground mines and in smelting and reduction works" (Stats. 1909, p. 279, chap. 181), approved March 10, 1909. The provisions of the act are as follows:

SECTION 1. That the period of employment for all persons who are employed or engaged to work in underground mines in search of minerals, whether base or precious, or who are engaged in such underground mines for other purposes, or who are employed or engaged in other underground workings whether for the purpose of tunneling, making excavations or to accomplish any other purpose or design, or who are employed in smelters and other institutions for the reduction or refining of ores or metals, shall not exceed eight hours within any twenty-four hours, and the hours of employment in such employment or work day shall be consecutive, excluding, however, any intermission of time for lunch or meals; *provided,* that in the case of emergency where life or property is in imminent danger, the period may be a longer time during the continuance of the exigency or emergency.

SEC. 2. Any person who shall violate any provision of this act, and any person who as foreman, manager, director or officer of a corporation, or as the employer or superior officer of any person, shall command, persuade or allow any person to violate any provision of this act, shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than fifty dollars ($50.00) nor more than three hundred dollars ($300.00), or by imprisonment of not more than three months. And the court shall have discretion to impose both fine and imprisonment as herein provided.

SEC. 3. All acts and parts of acts inconsistent with this act are hereby repealed.

It is not questioned by the petitioner that the complaint which furnished the basis for his arrest stated a violation of the terms of the act. His position is, however, that the act is void as being in contravention of constitutional provisions.

The ground of attack usually advanced in cases of this character, namely, that the statute is in conflict with the guaranties of the fourteenth amendment to the constitution of the United States, is not here urged. Indeed, such contention is hardly open to the petitioner in view of the decision in *Holden* vs. *Hardy*, 169 U. S. 366, 18 Sup. Ct. 383, 42 L. Ed. 780, where the Supreme Court of the United States decided that a statute of Utah, substantially identical in its main features with the one before us, did not deprive persons affected by it of any right conferred by the federal constitution. Conceding the binding force of that decision as an adjudication of all federal questions involved, the petitioner here bases his claim to immunity from prosecution upon certain provisions of the constitution of this state.

Before proceeding to a consideration of the particular points made in this connection, it may be well to briefly state the basis of the decision in *Holden* vs. *Hardy*, since, in our opinion, the points there decided go far toward answering the main objections predicated upon the state constitution. The right on the part of the state to restrict the freedom of citizens to make contracts concerning their callings or occupations was there upheld with respect to the particular callings covered by the Utah statute, *i. e.*, mining and working in smelting and reduction works, upon the ground that the restriction in question was a proper exercise of the police power for the preservation of the public health. "The right of contract," says the court, "is itself subject to certain limitations which the state may lawfully impose in the exercise of its police powers. While this power is inherent in all governments, it has doubtless been greatly expanded in its application during the past century, owing to an enormous increase in the number of occupations which are dangerous, or so far detrimental to the health of employees as to demand special precautions for their well-being and protection, or the safety of adjacent property. While this court has held * * * that the police power can not be put forward as an excuse for oppressive and unjust legislation, it may be lawfully resorted to for the purpose of preserving the public health, safety, or morals, or the abatement of public nuisances, and a large discretion is necessarily vested in the legislature to determine, not only what the interests of the public require, but what measures are necessary for the protection of such interests." Again, in the same opinion, it is said that: "While the general experience of mankind may

justify us in believing that men may engage in ordinary employments more than eight hours per day without injury to their health, it does not follow that labor for the same length of time is innocuous when carried on beneath the surface of the earth, where the operative is deprived of fresh air and sunlight, and is frequently subjected to foul atmosphere and a very high temperature, or to the influence of noxious gases, generated by the processes of refining or smelting." The right to limit the hours of labor generally was not involved in *Holden* vs. *Hardy*. No such right was asserted. It was, however, decided that the particular occupations affected by the act possessed such elements of danger and risk to the employee that the legislature might reasonably conclude that in such occupations a restriction of the time of labor was necessary for the protection of those engaged in such labor.

The limitations of the doctrine are well illustrated by the subsequent decision in *Lochner* vs. *New York*, 138 U. S. 45, 25 Sup. Ct. 539, 49 L. Ed. 937, in which the court, reversing the decision of the Court of Appeals of New York in *People* vs. *Lochner*, 177 N. Y. 145, 69 N. E. 373, 101 Am. St. Rep. 773, declared invalid a law limiting the hours of labor of bakers. The real ground of that decision is, we think, to be found in the following extract from the opinion of Mr. Justice Peckham: "We think that there can be no fair doubt that the trade of a baker, in and of itself, is not an unhealthy one to that degree which would authorize the legislature to interfere with the right to labor, and with the right of free contract on the part of the individual, either as employer or employee." The decision in the *Lochner* case was by a bare majority of the court, but the majority itself recognized the correctness of the decision in *Holden* vs. *Hardy* and distinguished that case upon the ground that the callings involved in the two statutes were essentially different.

It follows, from a comparison of these two decisions, that, in determining whether an act limiting the hours of labor in any occupation is in violation of the provisions of the federal constitution, the primary consideration is whether or not the occupation possesses such characteristics of danger, to the health of those engaged in it as to justify the legislature in concluding that the welfare of the community demands a restriction.

And this brings us to the petitioner's contention that the act is violative of the provisions of the state constitution respecting special

legislation. It is contended that the act violates subdivision 2 of section 25 of article IV, in that it is a special law for the punishment of a crime or misdemeanor created by said act; that it violates subdivision 33 of said section, in that it is a special law passed in a case where a general law can be made applicable; that it violates section 21 of article I, in that it grants to citizens or classes of citizens privileges or immunities which are not, upon the same terms, granted to all citizens; that it violates section 11 of article I as not being of uniform operation. These various specifications are in effect directed to the same point, namely, that the law arbitrarily selects for its operation a special class of persons. It is, we think, unnecessary at this date to cite many authorities in support of the proposition, that a law is not special or lacking in uniformity merely because it does not apply to every person or subject within the state. "An act to be general in its scope need not include all classes of individuals in the state: it answers the constitutional requirements if it relates to and operates uniformly upon the whole of any single class." *Abeel* vs. *Clark*, 84 Cal. 226, 24 Pac. 383. The classification created for the purposes of legislation must, of course, be a reasonable one. The test of its propriety is well stated in *City of Pasadena* vs. *Stimson*, 91 Cal. 238, 27 Pac. 604, where the court declared "that, although a law is general and constitutional when it applies equally to all persons embraced in a class founded upon some natural or intrinsic or constitutional distinction, it is not general or constitutional if it confers particular privileges or imposes peculiar disabilities or burdensome conditions in the exercise of a common right upon a class of persons arbitrarily selected from the general body of those who stand in precisely the same relation to the subject of the law." But in view of the decision in *Holden* vs. *Hardy*, based as it was upon the fact that the occupations covered by this act were so peculiarly dangerous as to justify special regulation, how can it be said that the legislature in selecting these occupations and applying to them provisions designed to protect the health of those engaged in them was making "a class of persons arbitrarily selected from the general body of those who stand in precisely the same relation to the subject of the law?" The very grounds which led the supreme court of the United States to hold that the Utah statute did not deprive any person of life, liberty, or property without due process of law, nor deny to any person the equal protection of the laws, requires the

conclusion that the legislation was not special within the meaning of our state constitution. See *Julien* vs. *Model B. L. & I. Co.*, 116 Wis. 79, 92 N. W. 561, 61 L. R. A. 668. For if it could be said that the limitation of the hours of labor of miners and those engaged in smelting and reduction works could not be supported by any natural or intrinsic distinction between those occupations and others, the legislation would, for the reasons declared in *Lochner* vs. *New York*, necessarily fall before the provisions of the federal constitution.

The appellant relies with great confidence upon the decision of the supreme court of Colorado in *In re Morgan*, 26 Colo. 415, 58 Pac. 1071, 47 L. R. A. 52, 77 Am. St. Rep. 269. In that case it was held that an act similar to the one under consideration was unconstitutional, this conclusion being based upon the ground, among others, that the law was "class legislation." We have not had access to the constitution of Colorado and are not informed of its precise terms regarding general and special legislation. It may be observed, however, that some of the grounds relied on by the Colorado court for its decision are clearly in conflict with the views of the supreme court of the United States in the *Holden* case. In other states, having constitutional provisions directed against the passing of special laws, legislation of this character has been upheld. *Ex parte Boyce*, 27 Nev. 299, 75 Pac. 1, 65 L. R. A. 47; *Ex parte Kair*, 28 Nev. 127, 80 Pac. 463, 113 Am. St. Rep. 817; *State* vs. *Cantwell*, 179 Mo. 245, 78 S. W. 569.

It is argued by the appellant that the act is special because it does not include in its scope many occupations other than mining which are equally dangerous to the health of the persons engaged in them. Reference is made, for example, to marble cutters and marble drillers, diamond cutters, workers in furnaces and laundries, men employed in wine cellars, breweries, and ice houses, men in boiler works, match makers, cleaners of clothes, makers of white lead, of china and earthenware, and many others. The argument is, apparently, that any law is special which does not include all of these occupations. This view is obviously unsound. Whether these other occupations present the same dangers to health as those involved in mining, etc., and whether, if they do, these dangers can best be met by restricting the hours of labor, are primarily questions for the legislature. The legislature has determined one or both of them in the negative by enacting this law. The selection of

the businesses requiring regulation is confined to the legislative discretion, and this discretion is not subject to judicial review unless it clearly appears to have been exercised arbitrarily and without any show of good reason. It certainly can not be justly said to be apparent that each or any of the trades instanced by counsel is, in its effect upon the health of the workers, identical with the occupations covered by the act under discussion, nor that the most appropriate method of counteracting any injurious effects pertaining to any of them is necessarily the same as that found to be suitable for miners and men working in smelting and reduction works. In other words, the law is not rendered special by the mere fact that it does not cover every subject which the legislature might conceivably have included in it. It is enough that the subjects covered possess such intrinsic peculiarities as to justify the legislative determination that those subjects require special enactment.

It may be questioned whether, in view of the title of the act, the limitation of hours applies to all underground work or only to that performed in mines. But if we assume, with petitioner, that only work in mines is covered, the act is not thereby rendered obnoxious to the constitutional provision against special legislation. This point was made in *State* vs. *Cantwell*, *supra*, and was met by the answer that the discrimination between work in mines, and that in other underground diggings was justified by the fact that mining is a permanent business in which men are engaged steadily for long periods of time, whereas other underground diggings are ordinarily temporary and irregular in duration and for that reason do not require the same measure of regulation.

The act and the title thereof do not embrace more than one subject; Const., art. 4, § 24; *Ex parte Boyce*, *supra*. It is designed, as we have said, for the protection of the health of persons engaged in occupations regarded by the legislature as dangerous. Such occupations as in the legislative view were subject to the same kind of danger and which require the same kind of regulation could properly be joined together in one act. We may remark the inconsistency between the argument that the act is void because it covers different kinds of employment and petitioner's other contention that the act is void because it does not cover a greater number of employments.

Petitioner attacks the provision of the act that the hours of employment shall be consecutive (excluding, however, any intermission of time for lunch or meals). We are not prepared to say that this limitation bears no reasonable relation to the protection of the health of the workmen. The legislature may have considered that persons working in underground mines, in smelters, or in reduction works required for their protection, not only that the total number of hours of employment in a day should be limited, but that the hours of labor should be so adjusted as to allow the employee a long consecutive period for rest and recreation. This is a question of legislative policy with which the courts have no concern.

Upon the whole case, we are satisfied that the act is a valid exercise of the legislative power, and that the petitioner is properly held.

It is ordered that the writ be dismissed and the petitioner remanded to the custody of the constable.

SLOSS, J.

We concur: SHAW, J.; ANGELLOTTI, J.; LORIGAN, J.; MELVIN, J.; HENSHAW, J.

Crim. No. 1539. Construction.

"The limitation of time is to be construed as referring to the time when men are actually engaged in work, not when they are going to or from their work."

Crim. No. 1540. Construction.

A quartz mill comes clearly within the phrase "smelters and other institutions for the reduction or refining of ores or metals."

DECISION UPHOLDING THE CONSTITUTIONALITY OF THE EIGHT-HOUR LAW FOR WOMEN.

Supreme Court of California, May 27, 1912.

(In Bank. Crim. No. 1686.)

IN THE MATTER OF THE APPLICATION OF F. A. MILLER FOR A WRIT OF HABEAS CORPUS.

Application for writ of habeas corpus prayed to be directed against F. P. Wilson, sheriff of the county of Riverside.

For Petitioner—Flint, Gray & Barker and Gray, Barker, Bowen, Allen, Van Dyke & Jutten.

For Respondent—Lyman Evans, District Attorney; Purrington & Adair; William Denman, *amicus curiæ;* G. S. Arnold, of counsel; Thos. F. Griffin and Leon Yanckwich, as *amici curiæ.*

The petitioner applies for release from custody on a charge of violating the provisions of the act of March 22, 1911, forbidding the employment of women in certain establishments for more than eight hours in one day, or more than forty-eight hours in one week (Stats. 1911, 437.) The specific charge is that on June 12, 1911, he employed and thereupon required Emma Hunt, a female, to work during that day for nine hours in the Glenwood Hotel, as an employee therein. His contention is that the act is unconstitutional and void.

Three grounds are urged in support of this claim: 1. That the restrictions imposed by the statute upon the freedom of contract are in violation of section 1, article I, and section 18 of article XX, of the constitution, and that it is consequently invalid; 2. That the act is special, that it is not uniform in its operation, and that it makes arbitrary discriminations between persons and classes of persons similarly situated contrary to the limitations of sections 11 and 21, article I, and section 25 of article IV of the constitution; 3. That it embraces two distinct subjects, contrary to section 24, article IV of the constitution.

The material parts of the statute are as follows:

SECTION 1. No female shall be employed in any manufacturing, mechanical or mercantile establishment, laundry, hotel, or restaurant, or telegraph or telephone establishment or office, or by any

express or transportation company in this state more than eight hours during any one day or more than forty-eight hours in one week. The hours of work may be so arranged as to permit the employment of females at any time so that they shall not work more than eight hours during the twenty-four hours of one day, or forty-eight hours during any one week; *provided, however,* that the provisions of this section in relation to the hours of employment shall not apply to nor affect the harvesting, curing, canning or drying of any variety of perishable fruit or vegetable.

SEC. 2. Every employer in any manufacturing, mechanical or mercantile establishment, laundry, hotel or restaurant, or other establishment employing any female, shall provide suitable seats for all female employees, and shall permit them to use such seats when they are not engaged in the active duties of their employment.

Section 3 declares it a misdemeanor, punishable by fine or imprisonment, or both, for any employer to require any female to work in any of the places mentioned in section 1 more than the number of hours allowed by the act, during any one day of twenty-four hours.

1. Section 18 of article XX of the constitution provides that "no person shall, on account of sex, be disqualified from entering upon or pursuing any lawful business, vocation or profession." This section prohibits any discrimination of this kind based solely on distinctions of sex. But, as in case of the other constitutional guaranties, this provision is subject to such reasonable regulations as may be imposed in the exercise of police powers. It does not forbid such reasonable restrictions upon the hours of labor of women as may be necessary for the protection and preservation of the public health. (*Ex parte Hayes*, 98 Cal. 556; *Foster* vs. *Commissioners*, 102 Cal. 490.)

2. Recognizing the importance of personal liberty, our state constitution at the outset declares that all persons have an inalienable right to enjoy life and liberty and to acquire and possess property. (Art. I, sec. 1.) This, necessarily, includes liberty to work for the purpose of acquiring property, or to accomplish any desired lawful object, and liberty to continue that work each day a sufficient time to gain more than is required for the daily needs. Hence comes the right to make contracts to serve and contracts to employ such service. There can be no contract by the employee to serve without a corresponding contract by the employer to hire and receive such service. Therefore, although the act in question provides a punishment only for the employer, its prohibition applies to both and it clearly restricts the liberty of both the employer and the employed, in the specified establishments, to freely contract with each other

as to the length of a day's service or to perform such contracts, when made. Consequently, it does, to that extent, take away the liberty guaranteed by this provision of the constitution.

Although this guaranty of the constitution is apparently absolute and unqualified, yet it is well established that it is subject to the exercise, by the legislature, of what are known as the police powers of the state.

Says the Supreme Court of the United States in *Holden* vs. *Hardy*, 169 U. S. 391: "This right of contract, however, is in itself subject to certain limitations which the state may lawfully impose in the exercise of its police powers," a power which "may lawfully be resorted to for the purpose of preserving public health, safety, or morals, and a large discretion is necessarily vested in the legislature to determine not only what the interests of the public require, but what measures are necessary for the protection of such interests." (See, to the same effect, *Ex parte Whitwell*, 98 Cal. 78; *Ex parte Tuttle*, 91 Cal. 591; *In re Yick Wo*, 68 Cal. 297; *Lawton* vs. *Steele*, 152 U. S. 136.)

Because of the great value to mankind and the consequent paramount importance of the preservation of individual liberty, it is universally admitted and held that the police powers of the legislature are not absolute or unlimited. These personal rights can not be taken away or impaired at the mere will of the legislature, nor at all, unless the public welfare demands it. So far as the effect on himself alone is concerned, each person has the absolute right to judge for himself whether the hard labor which he voluntarily performs is for his best interest or not. The legislature can not judge for persons in this respect and interfere solely to prevent them from injuring themselves by excessive labor. The injury must be of such character and extent and to such a number of persons that it may be reasonably supposed that it will cause injury to others, that is, to the community in general, or, as it is expressed, to the public health and general welfare. (*Lawton* vs. *Steele*, *supra*.)

The means adopted to produce the public benefit intended, or to prevent the public injury, must be reasonably necessary to accomplish that purpose and not unduly oppressive upon individuals. The determination of the legislature as to these matters is not conclusive, but is subject to the supervision of the courts, and if the above qualities are wanting, a law arbitrarily interfering with the right of contract, or imposing restrictions upon lawful occupations,

will be held void. (*Ex parte Whitwell, supra; Lawton* vs. *Steele, supra; Holden* vs. *Hardy, supra;* Tiedman, Police Powers, p. 17; Freund, Police Powers, sec. 63; Am. & Eng. Encyc. of Law, 936.) In the language of Justice Harlan in *Mugler* vs. *Kansas*, 123 U. S. 161: "If, therefore, a statute purporting to have been enacted to preserve public health, the public morals or the public safety, has no real or substantial relation to these objects, or is a palpable invasion of rights secured by the fundamental law, it is the duty of the court so to adjudge, and thereby give effect to the constitution." If this were not so, the constitutional guaranties of the personal right to liberty and property would be wholly subject to the will of the majority acting through the legislature.

It is settled, however, that some occupations may have a tendency to injure the health of those engaged therein, that this injury may be so general or extensive as to affect the public health and general welfare, and that in such cases the legislature may, in the exercise of the police power of the state, enact laws limiting the time of labor therein to eight hours a day. Thus, laws have been upheld restricting to eight hours the daily labor of persons working in underground mines, or in smelters and quartz mills, and the legislative judgment on the subject of the extent and effect of the injury was considered sufficiently supported to be beyond judicial interference. (*Holden* vs. *Hardy, supra; In re Martin*, 157 Cal. 51; *In re Martin*, 157 Cal. 60.

So, also, it has been recognized that some occupations followed by women, though less arduous than those generally followed by men, may have such a tendency to injure their health, if unduly prolonged, that laws may be enacted restricting their time of labor therein to ten hours a day. The application of these laws exclusively to women is justified on the ground that they are less robust in physical organization and structure than men, that they have the burden of child-bearing, and, consequently, that the health and strength of posterity and of the public in general is presumed to be enhanced by preserving and protecting women from exertion which men might bear without detriment to the general welfare. (See *Commonwealth* vs. *Hamilton Mfg. Co.*, 120 Mass. 383; *Wenham* vs. *State*, 65 Neb. 394; *State* vs. *Buchanan*, 29 Wash. 602; *State* vs. *Muller*, 49 Ore. 252; *Muller* vs. *Oregon*, 208 U. S. 412; *Whitey* vs. *Blæm*, 153 Mich. 419; *Ritchie* vs. *Wayman*, 244 Ill. 509; *State* vs. *Somerville*, 122 Pac. [Wash.] 324.)

Counsel for the respondent do not advance the proposition that a general restriction of all women to eight hours a day for all work would be a proper police regulation. This precise question is not involved. The act does not limit the time of occupation or exertion by females. It limits only the time for which a female may "be employed," that is to say, engaged in service for another. The time of such service does not usually measure the whole time of daily toil, labor or exertion.

The courts must always assume that the legislature, in enacting laws, intended to act within its lawful powers and not to violate the restrictions placed upon it by the constitution. We must take this statute as a law intended for a police regulation to preserve, protect or promote the general health and welfare. As has been already stated, a large discretion is vested in the legislature to determine what measures are necessary for that purpose. Upon this question of fact, as also with regard to the facts upon which a lawful classification and discrimination depends, to be hereinafter discussed, the rule is well settled that the legislative determination that the facts exist which make the law necessary, must not be set aside or disregarded by the courts, unless the legislative decision is clearly and palpably wrong and the error appears beyond reasonable doubt from facts or evidence which can not be controverted, and of which the courts may properly take notice. (*Stockton* vs. *Stockton*, 41 Cal. 159; *Ex parte Tuttle*, *supra*; *In re Spencer*, 149 Cal. 400; *In re King*, 157 Cal. 164.) The power of the court to declare a statute unconstitutional is "conceded to be always one of the utmost delicacy in its exercise, and never to be exerted except when the conflict between the statute and the constitution is palpable and incapable of reconciliation." (*Stockton* vs. *Stockton*, *supra*.) If reasonable men, upon a consideration of the facts might rationally reach the conclusion that the enforcement of the statute would tend to promote or preserve, in some appreciable degree, the public health or general welfare, the law must be accredited as a proper exercise of the police power, although other reasonable persons might take a different view.

The reasons which justify a restriction upon the hours of employment or labor of women, as distinguished from men, are fully stated in the cases heretofore cited upon that subject and need not be further considered here. Restrictions to ten hours a day have always been upheld. In Illinois a restriction to eight hours in

factories was declared invalid. (*Ritchie* vs. *People*, 155 Ill. 98.) In Washington, a similar law was held valid. (*State* vs. *Somerville*, *supra.*) In the latter case the woman was employed in a factory for the manufacture of paper boxes.

The question of the effect of the various occupations in which women engage, upon their health, is one upon which medical men differ and with respect to which the prevailing opinion changes from time to time. It has not been, and probably never will be, a settled question, either with respect to the deleterious effects of particular occupations, or the hours of labor which measure the limit of safety in each. Women who work for others usually have household or other domestic duties to perform which oblige them to continue at work each day for a much longer period than their time of service. Even those who live at their places of work generally have to make and mend their clothing and do other things for their personal welfare, in addition to the work done for their employers. In view of these circumstances affecting the generality of employed women, it could scarcely be claimed that a limitation to eight hours a day to the time of employment in many of the occupations mentioned in the act is unreasonable as a health regulation. The work in hotels may not be as severe as that in some of the other places covered by the law, but considering the delicate frame of women as compared with men, we can not perceive that the difference is so radical as to make it unreasonable to include employees in hotels among those protected by the law. Doubtless there is a limit below which the legislature can not go. But we can not say that eight hours of employment in work of this character in addition to the labor necessary to be done before and afterward by the employee is unreasonably low and beyond the legislative discretion, or that, in the present condition of common knowledge on the subject, the limitation upon the time of employment of women in hotels is so manifestly unreasonable and unnecessary for the promotion and preservation of the health and welfare of the human race, that the courts can declare that the legislature had no rational ground for imposing it as a police regulation for that purpose. The responsibility, if the law is unwise, is with the legislature.

3. The next objection is that the act is special because there are no reasons for making the restriction as to the particular employments mentioned in the act which do not apply with equal force to other similar occupations. There may be, and probably are, other

occupations followed by women which are equally injurious to their health, and which should also be regulated. But if this be true it does not make the law invalid. If there are good grounds for the classification made by the act, it is not void because it does not include every other class needing similar protection or regulation. "The law is not rendered special by the mere fact that it does not cover every subject which the legislature might conceivably have included in it." (*Ex parte Martin*, 157 Cal. 57.)

The general rules governing this subject are well settled by our decisions. They may be stated as follows: A law is general and uniform in its operation when it applies equally to all persons embraced within the class to which it is addressed, provided such class is made upon some natural, intrinsic or constitutional distinction between the persons composing it and others not embraced in it. It is not general or uniform and it makes an improper discrimination if it confers particular privileges or imposes peculiar restrictions or disabilities upon a class of persons arbitrarily selected from a large number of persons, all of whom stand in the same relation to the privileges granted or burdens imposed, and between whom and the persons not so favored or burdened no reasonable distinction or substantial difference can be found justifying the inclusion of one and the exclusion of the other from such privileges or burdens. The difference on which the classification is based must be such as, in some reasonable degree, will account for or justify the peculiar legislation. The following cases declare these rules: *Smith* vs. *Judge*, 17 Cal. 555; *Pasadena* vs. *Stimson*, 91 Cal. 251; *Darcy* vs. *San Jose*, 104 Cal. 645; *Bloss* vs. *Lewis*, 109 Cal. 499; *Marsh* vs. *Hanly*, 111 Cal. 370; *Ex parte Jentzsch*, 112 Cal. 474; *Ex parte Giambonini*, 117 Cal. 574; *Krause* vs. *Durbrow*, 127 Cal. 684; *Pratt* vs. *Browne*, 135 Cal. 652; *Ex parte Sohncke*, 148 Cal. 267.

The women employed in hotels are, for the most part, chambermaids and waitresses. It is contended that the work of such persons in hotels is no more arduous or injurious to health than that in lodging-houses and boarding-houses, that they are all of the same class with respect to the need of such protection, and, hence, that there is no substantial reason or difference in conditions which can justify the protection of those employed in hotels alone. The census returns show that in this state the number of boarding-houses and lodging-houses, combined, exceeds the number of hotels

by about fifty per cent of the number of the latter. As the hotels are usually the larger institutions, it is probable that the number of women employed therein is about equal to those employed in the other places mentioned. In the matter of numbers there appears to be no ground for distinction. But there are other obvious differences. The patrons of lodging-houses and boarding-houses use them as places of residence. They are for the most part permanent occupants. Such places partake more of the nature of a home or residence than does a hotel. They are not accessible, as of right, to the public generally, as is the case with hotels. The occupants may be and often are selected by the proprietor, and frequently they compose a class having similar habits, tastes and desires. An acquaintance arises between them and the servants and the servants soon become accustomed to the wants and ways of those by whom their services are required. The occupants of a hotel are of a more transient character. They come and go and change daily. They are usually entire strangers to the servants. Their habits are likely to be irregular and of great diversity as well as unfamiliar to the employees. These respective conditions must, or at least may, make the work of such employees in the other places materially different from those similarly employed in hotels. It is not unreasonable to suppose that those in the other places will be subject to less strain and tension than those who serve the more transient, varied and indiscriminate guests of hotels, to whom they are generally entire strangers. The legislature, in view of all the above facts, may reasonably have so determined. In support of the law, as already stated, the courts are bound to presume that it did make this decision, and as there are sound reasons upon which it may rest, the decision must be accepted as correct. The conditions stated appear to be a sufficient basis for the classification made. In such matters the legislature can not deal with individual cases. It can provide only for classes, and its decision as to the line of cleavage between classes in some particulars the same and in other particulars different must be upheld where it is based on any reasonable grounds. We are of the opinion, therefore, that the law can not be declared invalid because of this discrimination.

We can not say that the exemption of persons employed in harvesting, curing, canning or drying perishable fruits or vegetables from the operation of the law, makes an improper discrimination. These occupations can be carried on only for a short period of each

year, the time of the annual ripening of the particular fruits or vegetables. In a cannery devoted to every kind of fruit and vegetable the work may continue much longer, but even those establishments are idle for a large part of the year. There is time for those employed therein to obtain rest and recuperation. It is also to be noted that, looking to the general welfare, there is a greater necessity for facility in obtaining employees to do such work than obtains in ordinary employments, for, unless the work is done at the proper time, great loss must ensue from the perishable nature of the products to be preserved. These are all matters which the legislature could properly take into consideration, and they constitute a sufficient justification for the exception. (See *State* vs. *Somerville*, *supra*, where it was held that a similar exception did not vitiate the women's eight hour law of the state of Washington.)

4. The title embraces but one general subject—the regulation of female employment. The subdivision of this subject by the particular details stated in the title does not make it embrace two subjects. The title is sufficient in this respect. We find no ground upon which the law can be declared void or the conviction in question invalid.

Let the petitioner be remanded to the custody of the sheriff of Riverside County.

SHAW, J.

We concur: ANGELLOTTI, J.; SLOSS, J.; LORIGAN, J.; MELVIN, J.; BEATTY, C. J.

NOTE.—See following decisions of the Supreme Court of the United States.

EIGHT-HOUR LAW FOR WOMEN.

In the Supreme Court of the United States.

No. 112.—October Term, 1914.

F. A. MILLER, Plaintiff in Error, *vs.* F. P. WILSON, Sheriff of the County of Riverside, State of California.

SYLLABUS.

1. A statute limiting the hours of employment of women in any manufacturing, mechanical or mercantile establishment, laundry, hotel, or restaurant, or telegraph or telephone establishment or office, or by any express or transportation company to not more than eight hours a day or forty-eight hours a week, is not an arbitrary restraint of liberty of contract, but has a reasonable relation to a proper purpose—a reason based on her physical structure, her maternal functions and the vital importance of her protection in order to preserve the strength and vigor of the race.

2. It is not an unreasonable discrimination to classify the woman to whom the limitation shall apply, according to the nature of the employer's business and not upon the character of the employee's work.

3. A legislative classification for purposes of limitation of hours of labor is not unconstitutional because there may be other classes which might be benefited by similar regulation.

In error to the Supreme Court of the State of California.

Mr. J. F. Bowie argued the cause, and with Mr. Henry S. Van Dyke and Mr. Frank P. Flint filed a brief for plaintiff in error.

Mr. William Denman and Mr. Louis D. Brandeis argued the cause and with U. S. Webb, the Attorney General for the State of California, G. S. Arnold and Josephine Goldmark, filed briefs for the defendant in error.

(February 23, 1915.)

Mr. Justice Hughes delivered the opinion of the Court.

The plaintiff in error, the proprietor of the Glenwood Hotel in the City of Riverside, California, was arrested upon the charge of employing and requiring a woman to work in the hotel for the period of nine hours in a day, contrary to the statute of California

which forbade such employment for more than eight hours a day or forty-eight hours a week. Act of March 22, 1911; Stats. 1911, p. 437. It was stated in the argument at this bar that the woman was employed as a chambermaid. Urging that the act was in violation of the state constitution, and also that it was repugnant to the Fourteenth Amendment as an arbitrary invasion of liberty of contract and as unreasonably discriminatory, the plaintiff in error obtained a writ of *habeas corpus* from the supreme court of the state. That court, characterizing the statute as one "intended for a police regulation to preserve, protect, or promote the general health and welfare," upheld its validity and remanded the plaintiff in error to custody. 162 Cal. 687. This writ of error was then sued out.

The material portion of the statute, as it then stood, was as follows:

> No female shall be employed in any manufacturing, mechanical or mercantile establishment, laundry, hotel, or restaurant, or telegraph or telephone establishment or office, or by any express or transportation company in this state more then eight hours during any one day or more than forty-eight hours in one week. The hours of work may be so arranged as to permit the employment of females at any time so that they shall not work more than eight hours during the twenty-four hours in one day, or forty-eight hours during any one week; *provided, however*, that the provisions of this section in relation to the hours of employment shall not apply to nor affect the harvesting, curing, canning or drying of any variety of perishable fruit or vegetable.

As the liberty of contract guaranteed by the Constitution is freedom from arbitrary restraint—not immunity from reasonable regulation to safeguard the public interest—the question is whether the restrictions of the statute have reasonable relation to a proper purpose. (*Chicago, Burlington & Quincy R. R. Co.* vs. *McGuire*, 219 U. S. 549, 567; *Erie R. R. Co.* vs. *Williams*, 233 U. S. 685, 699; *Coppage* vs. *Kansas*, 236 U. S. 1. 18.) Upon this point, the recent decisions of this Court upholding other statutes limiting the hours of labor of women must be regarded as decisive. In *Muller* vs. *Oregon*, 208 U. S. 412, the statute of that State, providing that 'no female shall be employed in any mechanical establishment, or factory, or laundry' for 'more than ten hours during any one day,' was sustained as applied to the work of an adult woman in a laundry. The decision was based upon considerations relating to woman's physical structure, her maternal functions, and the vital

importance of her protection in order to preserve the strength and vigor of the race. 'She is properly placed in a class by herself,' said the court, 'and legislation designed for her protection may be sustained, even when like legislation is not necessary for men and could not be sustained. . . . Even though all restrictions on political, personal and contractual rights were taken away, and she stood, so far as statutes are concerned, upon an absolutely equal plane with him, it would still be true that she is so constituted that she will rest upon and look to him for protection; that her physical structure and a proper discharge of her maternal functions —having in view not merely her own health, but the well being of the race—justify legislation to protect her from the greed as well as the passion of man. The limitations which this statute places upon her contractual powers, upon her right to agree with her employer as to the time she shall labor, are not imposed solely for her benefit, but also largely for the benefit of all. Many words can not make this plainer. The two sexes differ in structure of body, in the functions to be performed by each, in the amount of physical strength, in the capacity for long continued labor, particularly when done standing, the influence of vigorous health upon the future well-being of the race, the self-reliance which enables one to assert full rights, and in the capacity to maintain the struggle for subsistence.' In *Riley* vs. *Massachusetts*, 232 U. S. 671, the plaintiff in error had been convicted upon the charge of employing a woman in a factory at a different hour from that specified in a notice posted in accordance with the statute relating to the hours of labor. The general provision of the statute being found to be valid, the particular requirements which were the subject of special objection were also upheld as administrative rules designed to prevent the circumvention of the purpose of the law. The case of *Hawley* vs. *Walker*, 232 U. S. 718, arose under the Ohio act prohibiting the employment of 'females over eighteen years of age' to work in 'any factory, workshop, telephone or telegraph office, millinery, or dressmaking establishment, restaurant or in the distributing or transmission of messages more than ten hours in any one day, or more than fifty-four hours in any one week.' The plaintiff in error was charged with employing a woman in a millinery establishment for fifty-five hours in a week. The constitutionality of the law as thus applied was sustained by this court.

It is manifestly impossible to say that the mere fact that the statute of California provides for an eight hour day, or a maximum of forty-eight hours a week, instead of ten hours a day or fifty-four hours a week, takes the case out of the domain of legislative discretion. This is not to imply that a limitation of the hours of labor of women might not be pushed to a wholly indefensible extreme, but there is no ground for the conclusion here that the limit of the reasonable exertion of protective authority has been overstepped. Nor, with respect to liberty of contract, are we able to perceive any reason upon which the State's power thus to limit hours may be upheld with respect to women in a millinery establishment and denied as to the chambermaid in a hotel.

We are thus brought to the objections to the act which are urged upon the ground of unreasonable discrimination. These are (1) the exception of women employed in 'harvesting, curing, canning or drying of any variety of perishable fruit or vegetable'; (2) the omission of those employed in boarding houses, lodging houses, etc.; (3) the omission of several classes of women employees, as for example stenographers, clerks and assistants employed by the professional classes, and domestic servants; and (4) that the classification is based on the nature of the employer's business and not upon the character of the employee's work.

With respect to the last of these objections, it is sufficient to say that the character of the work may largely depend upon the nature and incidents of the business in connection with which the work is done. The legislature is not debarred from classifying according to general considerations and with regard to prevailing conditions; otherwise, there could be no legislative power to classify. For it is always possible by analysis to discover inequalities as to some persons or things embraced within any specified class. A classification based simply on a general description of work would almost certainly bring within the class a host of individual instances exhibiting very wide differences; it is impossible to deny to the legislature the authority to take account of these differences and to do this according to practical groupings in which, while certain individual distinctions may still exist, the group selected will as a whole fairly present a class in itself. Frequently such groupings may be made with respect to the general nature of the business in which the work is performed; and, where a distinction based on the nature of the business is not an unreasonable one

considered in its general application, the classification is not to be condemned. See *Louisville & Nashville R. R. Co.* vs. *Melton*, 218 U. S. 36, 53, 54. Hotels as a class, are distinct establishments not only in their relative side but in the fact that they maintain a special organization to supply a distinct and exacting service. They are adapted to the needs of strangers and travelers who are served indiscriminately. As the State court pointed out, the women employees in hotels are for the most part chambermaids and waitresses; and it can not be said that the conditions of work are identical with those which obtain in establishments of a different character, or that it was beyond the legislative power to recognize the differences that exist.

If the conclusion be reached, as we think it must be, that the legislature could properly include hotels in its classification, the question whether the act must be deemed to be invalid because of its omission of women employed in certain other lines of business is substantially the same as that presented in *Hawley* vs. *Walker*, *supra*. There, the statute excepted "canneries or establishments engaged in preparing for use perishable goods"; and it was asked in that case on behalf of the owner of a millinery establishment why the act should omit mercantile establishments and hotels. The contention as to the various omissions which are noted in the objections here urged ignores the well-established principle that the legislature is not bound, in order to support the constitutional validity of its regulation, to extend it to all cases which it might possibly reach. Dealing with practical exigencies, the legislature may be guided by experience. *Patsone* vs. *Pennsylvania*, 232 U. S. 138, 144. It is free to recognize degrees of harm, and it may confine its restrictions to those classes of cases where the need is deemed to be clearest. As has been said, it may "proceed cautiously, step by step," and "if an evil is specially experienced in a particular branch of business" it is not necessary that the prohibition "should be couched in all-embracing terms." *Carroll* vs. *Greenwich Insurance Co.*, 199 U. S. 401, 411. If the law presumably hits the evil where it is most felt, it is not to be overthrown because there are other instances to which it might have been applied, *Keokee Coke Co.* vs. *Taylor*, 234 U. S. 224, 227. Upon this principle, which has had abundant illustration in the decisions cited below, it can not be concluded that the failure to extend the act to other and distinct lines of business, having their own circumstances

and conditions, or to domestic service, created an arbitrary discrimination as against the proprietors of hotels. *Ozan Lumber Co.* vs. *Union County Bank*, 207 U. S. 251, 256; *Heath & Miligan* vs. *Worst*, 207 U. S. 338, 354; *Engel* vs. *O'Malley*, 219 U. S. 128, 138; *Lindsley* vs. *Natural Carbonic Acid Gas Co.*, 220 U. S. 61, 78; *Mutual Loan Co.* vs. *Martell*, 222 U. S. 225, 235; *Central Lumber Co.* vs. *South Dakota*, 226 U. S. 157, 160; *Rosenthal* vs. *New York*, 226 U. S. 260, 270; *Barrett* vs. *Indiana*, 229 U. S. 26, 29; *Sturges & Burn* vs. *Beauchamp*, 231 U. S. 320, 326; *German Alliance Insurance Co.* vs. *Kansas*, 233 U. S. 389, 418, 419; *International Harvester Co.* vs. *Missouri*, 234 U. S. 199, 213; *Atlantic Coast Line R. R. Co.* vs. *Georgia*, 234 U. S. 280, 289.

For these reasons the judgment must be affirmed.

Judgment affirmed.

EIGHT-HOUR LAW FOR WOMEN.

In the Supreme Court of the United States.

Nos. 362 and 363—October Term, 1914.

WILLIAM B. BOSLEY, PETER L. WHEELER and SAMUEL H. BUTEAU, Trustees of "The Samuel Merritt Hospital," and ETHEL E. NELSON, Appellants, *vs.* JOHN P. McLAUGHLIN, Labor Commissioner of the State of California et al.

SYLLABUS.

1. A statute limiting to eight hours a day and forty-eight hours a week the time of employment of women pharmacists in hospitals is not unconstitutional as violating the right of freedom of contract. The question whether such an arrangement is expedient is a matter for legislative but not judicial consideration.

2. The same restriction as to the hours of employment of student nurses in hospitals is not an unconstitutional violation of the freedom of contract, as these persons, upon whom rests the burden of immediate attendance upon and nursing of the patients in hospitals, are also pupils engaged in a course of study and the propriety of legislative protection of women undergoing such a discipline is not open to question.

3. It is not a denial of the equal protection of the laws not to extend the eight hour limitation to graduate nurses in hospitals as their duties there are of a character different from other employees of the hospital and as they may well be excepted for purposes of meeting emergencies for which their training especially fits them.

Appeal from the District Court of the United States for the Northern District of California.

Mr. J. F. Bowie argued the cause, and with Charles S. Wheeler filed a brief for the appellants.

Mr. Louis D. Brandeis and Mr. William Denman argued for cause and, with Miss Josephine Goldmark and G. S. Arnold, filed briefs for the appellees.

(February 23, 1915.)

Mr. Justice Hughes delivered the opinion of the court.

This is a suit to restrain the enforcement of the statute of California prohibiting the employment of women for more than

eight hours in any one day or more than forty-eight hours in any one week. The act is the same as that which was under consideration in *Miller* vs. *Wilson*, *ante*, p. 234, decided February 23, 1915, as amended in 1913. By the amendment, the statute was extended to public lodging houses, apartment houses, hospitals, and places of amusement. The proviso was also amended so as to make the statute inapplicable to "graduate nurses in hospitals." Stats. (Cal.) 1913, p. 713.

The complainants are the trustees of "The Samuel Merritt Hospital" in Alameda, California, and one of their employees, Ethel E. Nelson. Their bill set forth that there were employed in this hospital approximately eighty women and eighteen men; that of these women ten were what are known as "graduate nurses," that is to say, those who had "pursued and completed, at some training school for nurses in a hospital, courses of study and training in the profession or occupation of nursing and attending the sick and injured," and had received diplomas or certificates of graduation. By reason of their qualifications, they were paid "a compensation greatly in excess of that paid to female pupils engaged in nursing in hospitals while students of the training school."

It was further averred that, in addition to these ten graduate nurses, certain other women were employed in the hospital, one as bookkeeper, two as office assistants, one as seamstress, one as matron or housekeeper, five who were engaged in ordinary household duties, and one—the complainant Ethel E. Nelson—as pharmacist. It was stated that this complainant was a graduate pharmacist, licensed by the state board; that she also acted as storekeeper, but that her chief duty was to mix and compound drugs for use in the treatment of the hospital patients. The general allegation was made that these last-mentioned eleven employees performed work that was in no manner different from that done by "persons engaged in similar employments or occupations and not employed in hospitals." The apprehended injury to the complainant Nelson by reason of the interference of the statute with her freedom to contract was specially alleged.

It was also set forth that the hospital maintained a school with a three years' course of study wherein women were trained to nurse the sick and injured; that in this school there were enrolled twenty-four in the third year class, eighteen in the second year class and

twenty-three in the first year class; that a part of the "education and training" of these "student nurses" consisted in "aiding, nursing and attending to the wants of the sick and injured persons" in the hospital, this work being done while the student was pursuing the prescribed course of study; that the student nurses were paid $10 a month during each of the first two years of their course and $12.50 a month in the third year, and were also provided throughout the three years "with free board, lodging and laundry." It was averred that the cost to the hospital of maintaining the school was $2,500 a month, and that the cost of procuring the work to be performed by graduate nurses that was being done by student nurses would be not less than $3,600 a month. It was set forth as a reason why the work of the student nurses was done at less expense, that their compensation was paid not only in money, board, etc., but also partially in their education and training, their attendance on patients being in itself an indispensible part of their course of preparation. It was said further that their hours of labor must be determined by the exigencies of the cases they were attending.

The enforcement of the act with respect to these student nurses, it was stated, would require the hospital either to cease the operation of the school or largely to increase the number in attendance in order that an equal return in service could be obtained; and such increase would involve a greatly enlarged expense.

The complainants attacked the act on the grounds that it interferred with their liberty of contract and denied to them the equal protection of the laws, contrary to the Fourteenth Amendment. And in support, it was asserted in substance, that labor in hospitals did not afford, in itself, a basis for classification; that there was no difference between such labor and the "same kind of labor" performed elsewhere; that a hospital is not an unhealthful or unsanitary place; and, generally, that the statute and its distinctions were arbitrary.

Upon the bill, an application was made for an injunction pending the suit. It was heard by three judges and was denied. The appeal in No. 362 is from the order thereupon entered.

The defendants, the officers charged with the enforcement of the law, filed an answer. On final hearing, the complainants made an offer to prove that "all the allegations of fact set forth in the bill were true; that the fact that a woman was a graduate nurse merely showed that she had completed a course of study for the

treatment of the sick, but that the course of study which a woman must take for that purpose was not prescribed by law or fixed by custom, but was such as any hospital or training school might, in the discretion of its governing officers see fit to prescribe; that the difference between a graduate nurse and an experienced nurse is a difference of technical education only, and that there is no standard by which this difference can be measured; that graduate nurses working in and employed by hospitals do not ordinarily perform therein the work of nursing the sick, but act as overseers to assistants to the medical staff." The District Judge thereupon stated that upon the hearing of the motion for an interlocutory injunction it had been held that the complaint did not state a cause of action and that it was considered unnecessary to take the evidence. The offer of proof was rejected and the bill of complaint dismissed. No. 363 is an appeal from the final decree.

1. *As to liberty of contract.* The gravamen of the bill is with respect to the complainant Nelson, a graduate pharmacist, and the student nurses. As to the former—it appears that a statute of California limits the hours of labor of pharmacists to ten hours a day and sixty hours a week. Stats. (Cal.) 1905, p. 28. In view of the nature of their work, and the extreme importance to the public that it should not be performed by those who are suffering from over-fatigue, there can be no doubt as to the legislative power reasonably to limit the hours of labor in that occupation. This, the appellants expressly concede. But this being admitted to be obviously within the authority of the legislature, there is no ground for asserting that the right to contractual freedom precludes the legislature from prohibiting women pharmacists from working for more than eight hours a day in hospitals. The mere question whether in such case a practical exigency exists, that is, whether such a requirement is expedient, must be regarded as a matter for legislative, not judicial, consideration.

The appellants, in argument, suggest a doubt whether the statute is applicable to the student nurses, but the bill clearly raises the question of its validity as thus applied and urges the serious injury which its enforcement would entail upon the hospital. Assuming that these nurses are included, the case presented would seem to be decisive in favor of the law. For it appears that these persons, upon whom rests the burden of immediate attendance upon, and nursing of, the patients in the hospital are also pupils engaged in

a course of study, and the propriety of legislative protection of women undergoing such a discipline is not open to question. Considerations which, it may be assumed, moved the legislature to action have been the subject of general discussion as is shown by the bulletin issued by the United States Bureau of Education on the "Educational Status of Nursing" (Bulletin, 1912, No. 7). With respect to the "hours of duty" for student nurses, it is there said (pp. 29-32): "These long hours have always formed a persistent and at times an apparently immovable obstacle in efforts to improve the education of nurses and to establish a rational adjustment of practice to theory. . . . Ten or more hours a day in addition to class work and study might be endured for a period of two years without obvious or immediate injury to health. The same hours carried on for three years would prove a serious strain upon the student's physical resources, inflicting perhaps irreparable injury. The conclusions reached in this first study of working hours of students (1896) were that they were universally excessive, that their requirement reacted injuriously not only upon the students, but eventually upon the patients and the hospital, that it was a short-sighted and unjustifiable economy in hospital administration which permitted it to exist. Fifteen years later, statistics show that though the course of training has now in the great majority of schools been lengthened to three years, shorter hours of work have not generally accompanied this change, and that progress in that direction has been slow and unsatisfactory." After quoting statistics the bulletin continues: "In speaking of hours it must be remembered that these statistics refer only to practical work in ward, clinic, operating room, or other hospital department, and not to any portion of theoretical work; that the ten hours in question are required of the student irrespective of lectures, class, or study. This practical work, also, is in many of its aspects unusually exacting and fatiguing; much of it is done while standing, bending, or lifting; much of it is done under pressure of time and nervous tension, and to a considerable degree the physical effort which the student must make is accompanied by mental anxiety and definite, often grave, responsibility. Viewed from any standpoint whatever, real nursing is difficult, exacting work, done under abnormal conditions, and all the extraordinary, subtle, intangible rewards and satisfactions which are bound up in it for the worker can not alter that fact. Ten hours, or even nine hours, of work

daily of this nature can not satisfactorily be combined with theoretical instruction to form a workable educational scheme. . . . How largely the superintendents of training schools feel the need of improvement in this direction may be gathered from the fact that over two-thirds of the replies to the questions on this subject suggested shorter hours as advisable or necessary, that a large proportion of these stated their firm belief in an eight-hour day, and that almost every reply which came showed clearly in one way or another the difficulties under which the schools were laboring in trying to carry on the hospital work with the existing number of students."

Whatever contest there may be as to any of the points of view thus suggested, there is plainly no ground for saying that a restriction of the hours of labor of student nurses is palpably arbitrary.

As to certain other women (ten in number) employed in the hospital, such as the matron, seamstress, bookkeeper, two office assistants and five persons engaged in so-called household work, the bill contains merely this general description without further specifications; and from any point of view it is clear that, with respect to the question of freedom of contract, no facts are alleged which are sufficient to take the case out of the rulings in *Muller* vs. *Oregon*, 208 U. S. 412; *Riley* vs. *Massachusetts*, 232 U. S. 671; *Hawley* vs. *Walker*, 232 U. S. 718; and *Miller* vs. *Wilson*, *ante*, p. 234.

2. *As to the equal protection of the laws.* The argument in this aspect of the case is especially addressed to the exception of "graduate nurses." The contention is that they are placed "on one side of the line and doctors, surgeons, pharmacists, experienced nurses and student nurses and all other hospital employees on the other side of the line." So far as women doctors and surgeons are concerned, the question is merely an abstract one as no such question is presented by the allegations of the bill with regard to the complainant hospital. (*Southern Railway Co.* vs. *King*, 217 U. S. 524, 534; *Standard Stock Food Co.* vs. *Wright*, 225 U. S. 540, 550.) With regard to other nurses, whether so-called "experienced" nurses or student nurses, it sufficiently appears that the graduate nurse is in a separate class. The allegations of the bill itself show this to be the fact. It is averred that the graduate

nurses are those who "have pursued and completed, at some training school for nurses in a hospital, courses of study and training in the profession or occupation of nursing and attending the sick and injured, and have received, in recognition thereof, diplomas or certificates of graduation from said courses of study." And, in the appellants' offer of proof, it is said that "graduate nurses working in and employed by hospitals do not ordinarily perform therein the work of nursing the sick, but act as overseers to assistants to the medical staff." It may be, as asserted, that the difference in qualifications between a graduate nurse and an "experienced nurse" is a difference of technical education only, but that difference exists and is not to be brushed aside. It is one of which the legislature could take cognizance. Not only so, but as such nurses act as overseers of wards or assistants to surgeons and physicians, it would be manifestly proper for the legislature to recognize an exigency with respect to their employment making it advisable to take them out of the general prohibition. Again, with regard to the complainant Nelson, who is a graduate pharmacist, while she has been graduated from a course of training for her chosen vocation, it is a different vocation. The work is not the same. There is no relation to the supervision of the wards, and, putting mere matters of expediency aside, there is no basis for concluding that the legislature was without power to treat the difference as a ground for classification.

As to the ten other women employees, the validity of the distinction made in the case of graduate nurses is obvious. It should further be said, aside from the propriety of classification of women in hospitals with respect to the general conditions there obtaining (*Louisville & Nashville R. R. Co.* vs. *Melton*, 218 U. S. 36, 53, 54), that the bill wholly fails to show as to the employment of any of these persons any such injury—actual or threatened—as would warrant resort to a court of equity to enjoin the enforcement of the law.

And the objection based upon the failure of the legislature to extend the prohibition of the statute to persons employed in other establishments is not to be distinguished in principle from that which was considered in *Miller* vs. *Wilson*, *supra*, and cases there cited.

Decrees affirmed.

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